

# Exhibit 16

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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COURTNEY LINDE, ET AL.,  
Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

:  
: 04-CV-02799 (BMC)  
: And all related cases:  
: 04-CV-05449 (Litle)  
: 04-CV-05564 (Almog)  
: 04-CV-00365 (Coulter)  
: 05-CV-00388 (Afriat-Kurtzer)  
: 05-CV-03183 (Bennett)  
: 05-CV-03768 (Roth)  
: 06-CV-01623 (Weiss)

:  
: United States Courthouse  
: Brooklyn, New York

:  
: Monday, August 18, 2014  
: 9:00 a.m.

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TRANSCRIPT OF CIVIL CAUSE FOR JURY TRIAL  
BEFORE THE HONORABLE BRIAN M. COGAN  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Linde and OSEN, LLC  
Coulter Plaintiffs: BY:GARY M. OSEN, ESQ.

TURNER & ASSOCIATES, PLLC  
BY:CLYDE T. TURNER, ESQ.

For the Litle, SAYLES WERBNER  
Bennett and Roth BY:MARK S. WERBNER, ESQ.  
Plaintiffs:

For the Almog STONE BONNER & ROCCO, LLP  
Plaintiffs: BY:JAMES P. BONNER, ESQ.

MOTLEY RICE, LLC  
BY:MICHAEL E. ELSNER, ESQ.  
JODI FLOWERS, ESQ.

Proceedings

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A P P E A R A N C E S: (Continued)

For the Defendant: DLA PIPER US LLP  
BY: SHAND STEPHENS, ESQ.  
ANTHONY PAUL COLES, ESQ.  
BRETT INGERMAN, ESQ.  
MARGARET CIVETTA, ESQ.

Court Reporter: VICTORIA A. TORRES BUTLER, CRR  
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Proceedings recorded by mechanical stenography, transcript  
produced by Computer-Assisted Transcription.

15

16

(In open court.)

17

(Judge BRIAN M. COGAN enters the courtroom.)

18

(The following occurs outside the presence of the

19

jury.)

20

THE COURTROOM DEPUTY: All rise.

21

THE COURT: Good morning.

22

ALL: Good morning.

23

THE COURT: Be seated, please.

24

Thank you all for coming in early. I'm going to go

25

through the things that came up this weekend and that I expect

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1 EVAN F. KOHLMANN, having been first duly sworn, by the  
2 Courtroom Deputy, took the stand and testified as follows:

3 THE COURT: You may inquire.

4 DIRECT EXAMINATION BY MR. ELSNER:

5 Q Can you please state your name sir?

6 A Of course, my name is Evan F. Kohlmann.

7 Q What is it you do for a living Mr. Kohlmann?

8 A I work as an international terrorism consultant.

9 Q What is the particular focus of your work?

10 A The focus of my work is the hierarchy, history,  
11 leadership, communications and financing of international  
12 terrorists organizations with a focus on groups such as  
13 al-Qaeda, Hamas and Hezbollah.

14 Q What specific tasks were you asked to do in this case.

15 A In this particular case, I was asked to review a list of  
16 terrorist attacks that had occurred in the state of Israel. I  
17 was asked --

18 Q Can I have you pause there for a second.

19 A No problem.

20 (Pause.)

21 Q Have you seen this list before, sir?

22 A I have, yes.

23 Q What is this?

24 A This is the list of terrorist attacks which I was asked  
25 to consider as part of my inquiry.

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1 Q And what were you considering them for, what purpose?

2 A I was asked to consider whether or not Hamas, the  
3 organization Hamas had ever issued claims and  
4 responsibilities, through its authentic online channels, i.e.  
5 websites or other online media, in which it claimed  
6 responsibility or indicated involvement in these particular  
7 attacks.

8 Q And have you reached any opinions in this case with  
9 respect to that?

10 A I have.

11 Q What are those opinions?

12 A I have concluded that Hamas has indeed, issued  
13 communiqués or other claims of responsibility, in which they  
14 have indicated their involvement or at least claimed their  
15 involvement in these various attacks.

16 Q Mr. Kohlmann, what is that that qualifies you to give this  
17 opinion, do you have a college degree?

18 A Yes.

19 Q In what?

20 A I have a Bachelor of Science of Foreign Service, BSFF  
21 from the Edmund A. Walsh, School of Foreign Service at  
22 Georgetown University in Washington D.C.. I also have a  
23 certificate in Islam and Muslim Christian understanding from  
24 the Prince Alwaleed Bin Talal Center for Muslim Christian  
25 understanding in Georgetown University, and I also have a J.D.

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1 or law degree from the University of Pennsylvania Law School  
2 in Philadelphia, Pennsylvania.

3 Q You don't work as a lawyer, do you, Mr. Kohlmann?

4 A No, I do not.

5 Q Where do you work, sir, and what kind of business is  
6 that?

7 A I currently run a company called Flashpoint Global  
8 Partners. Flashpoint is an outgrowth of a business I  
9 initially started in 2003. We provide both consulting as well  
10 as data services to a variety of different clients.

11 Q How many employees do you have?

12 A We have approximately 14 employees.

13 Q And, who do you provide consulting services to?

14 A I provide consulting services to clients that include  
15 governments, such as the U.S. government, the U.S. Justice  
16 Department, the F.B.I., the Department of State, and other  
17 U.S. government agencies. I also provide assistance to  
18 foreign governments, including foreign law enforcement,  
19 including the governments of the United Kingdom, Australia,  
20 Switzerland, Denmark and Bosnia Herzegovina.

21 I also provide services to private clients including  
22 large financial institutions, banks, major U.S. corporations  
23 as well as law firms.

24 Q Have you ever testified as an expert in court before?

25 A I have, yes.

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1 Q What types of cases have you qualified as an expert?

2 A I have been qualified as an expert in international  
3 terrorism in federal civil cases here in the U.S., federal  
4 criminal cases here in the U.S., U.S. military tribunals, as  
5 well as foreign legal jurisdictions.

6 Q What do you mean by U.S. military tribunals?

7 A I have testified twice, and I have been qualified a third  
8 time to testify before U.S. military tribunal in Guantanamo  
9 Bay, Cuba regarding detained enemy combatants.

10 Q Have you ever been rejected to testify as an expert?

11 A On one occasion.

12 Q When was that?

13 A That was in 2005.

14 Q How many times since then have you been qualified as an  
15 expert?

16 A In U.S. criminal, federal criminal jurisdiction, 29  
17 times; in civil, federal civil cases, I believe this would be  
18 number four; and in foreign jurisdictions, approximately 11  
19 times.

20 Q Do you work with the media in your work?

21 A I do, yes.

22 Q What do you could with the media?

23 A I am currently employed as NBC terrorism analyst. In  
24 that capacity, I appear on television and provide analysis  
25 regarding to ongoing events, international terrorism, security

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1 and cyber terrorism. I also provide NBC or I'm responsible to  
2 providing NBC and MSNBC with access to original documents  
3 including original video recordings, and audio recordings,  
4 that are released by terrorists organizations, particularly,  
5 when they are released online.

6 It is my responsibility to gather that material and  
7 provide to NBC for broadcast.

8 Q Do you charge a fee for your work?

9 A I do, yes.

10 Q What is that?

11 A In legal work, I generally charge between 350 and 400 an  
12 hour.

13 THE COURT: Hang an on second.

14 Mr. Kohlmann, I will ask you to do, after the  
15 question is asked, wait a fraction of a second to give your  
16 answer.

17 THE WITNESS: I apologize.

18 THE COURT: That is okay.

19 Q And you have worked with my firm before in other cases;  
20 is that right, Mr. Kohlmann?

21 A I have, yes.

22 Q How much did you make with respect to the work that you  
23 have done in this case?

24 A In this case, I have earned approximately \$35,000.

25 Q Does all that money go to you Mr. Kohlmann?



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1 A No, it does not. In order to service most of the  
2 contracts that I conduct, I require, required to use  
3 linguists, other analysts in my company. In order to defer  
4 the costs of having Arabic linguist, Russian linguists,  
5 Mandarin linguists, for a variety of different languages, I  
6 have to pay money out of the monies that we make for revenue  
7 to cover those expenses, to cover our computer expenses and  
8 other expenses related to what we do.

9 Q You said you are an expert in Hamas communications. Do  
10 you review Israeli police reports and confessions from Israel?

11 A Not generally speaking, no.

12 Q Have you reviewed the ballistics reports and that type of  
13 records to form your opinion here today?

14 A No, I have not.

15 Q Why not?

16 A Well, it is not necessarily relevant to the analysis of  
17 whether or not a particular websites or online channel is an  
18 authentic channel for terrorist organizations, in this case,  
19 Hamas.

20 Q Have you ever traveled to Israel and Palestinian  
21 territories?

22 A No, I have not.

23 Q Have you compared Hamas' statements of responsibility to  
24 statements of other groups?

25 A I have, yes.

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1 Q Were you restricted in this case from reviewing any  
2 information about those communications?

3 A No. Not necessarily, no.

4 Q Can you tell the jury what is Hamas?

5 A Hamas is a terrorist organization that was founded in  
6 approximately December of 1987. Hamas is actually an acronym  
7 that stands for Harakat al-Muqawamah al-Islamiyyah, which  
8 simply means the Islamic resistance movement. The movement  
9 was founded in order to provide an Islamic platform for  
10 fighting, for Palestinians fighting the State of Israel,  
11 particularly under the platform of Muslim Brotherhood of which  
12 Hamas is basically a faction of, splinter organization of.

13 Q Has the U.S. government ever designated Hamas as a  
14 specially, as a foreign terrorist organization?

15 A Yes, the U.S. government has repeatedly designated Hamas  
16 as both an SDGT and foreign terrorist organization, FT0 under  
17 U.S. law starting in 1995, 1997.

18 Q Have you researched Hamas communications?

19 A I have, yes.

20 Q For how long have you done this research?

21 A I began researching Hamas communications in approximately  
22 1997.

23 Q Have you ever been hired by the Department of Justice to  
24 review and analyze Hamas communications?

25 A I have, yes.

1 Q Can you explain the circumstances?

2 A Yes, I have been retained by the U.S. Justice Department  
3 in several circumstances, in order to review hard drives,  
4 seized from individuals in criminal cases, in which the  
5 materials on those hard drives, included video recordings,  
6 communiques or other propaganda produced by the Hamas movement  
7 in Palestine. I have also been asked to produce expert  
8 reports for the U.S. Justice Department, outlining the history  
9 of Hamas, the goals of Hamas, and other aspects of Hamas.

10 Q When Hamas commits terrorist attacks, do they make  
11 statements claiming responsibility in your opinion?

12 A Yes, they do.

13 Q Why do they make such statements?

14 A Hamas issues claims of responsibility in order to  
15 document their involvement for a number of reasons. Number  
16 one, they wish to announce their presence both on a local  
17 stage as well as international stage. They want international  
18 governments, including western governments to take note of  
19 what they are doing.

20 Number two, they are seeking to attract new members,  
21 and the best way to attract new members or new recruits is to  
22 advertise your activities and to propagandize on their behalf.

23 Thirdly, Hamas as an organization that relies on  
24 outside funding, primarily, needs to broadcast to an  
25 international audience to solicit financial donations. Thus

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1 the propaganda serves as key element.

2 Q Do they maintain a presence on the internet?

3 A They do, yes.

4 Q And, let's show a slide. Can you tell the jury, where in  
5 your opinion they maintain such a presence?

6 A Yes. Hamas has two primary Internet presences or two  
7 primary websites on the Internet that serve to -- basically  
8 serves as a platform for propaganda, recruitment and  
9 solicitation for finance.

10 One of those websites represents the political wing  
11 of Hamas, the other website represents the military wing of  
12 Hamas.

13 The first website which represents the political  
14 wing of Hamas is known as the Palestinian Information Center,  
15 or Palestine-info.net; Palestine-info.com, Palestine-info.org.

16 Q Sir, do experts in the field like you, rely upon websites  
17 of terrorist organizations in order to reach their opinions?

18 A Yes, they do.

19 Q Why?

20 A Because of the fact that in terms of getting the  
21 authentic message from Hamas directly from the organization or  
22 from any terrorists organization, there are very few ways for  
23 these organization to get their message out unadulterated.

24 If they leak videos to major media, those media --  
25 the media cuts the videos up and only show small excerpts. If

1 Hamas wants to get its direct message out to an audience that  
2 it is seeking to reach, the best way to do that is through the  
3 Internet. That exactly what Hamas itself has acknowledged in  
4 its own website.

5 Q To your knowledge, does the U.S. government ever use  
6 these two websites to investigate Hamas?

7 A Yes, it has.

8 Q The U.S. government said whether these Hamas websites --  
9 identified these two websites as Hamas websites?

10 MR. STEPHENS: Objection.

11 THE COURT: Overruled.

12 A Yes, it has. Including the open source center, which is  
13 otherwise known as the foreign broadcast information service.  
14 This is the open source information arm of the Central  
15 Intelligence Agency. It publishes translations of materials  
16 both for U.S. government agencies as well as U.S. contractors  
17 about foreign media and foreign information sources.

18 When it seeks to cite Hamas, particularly Hamas  
19 online presences, it directly cites these particular websites.

20 Q Well, let's start with the first website, the Palestine  
21 Information Center. We have a demonstrative, I would like to  
22 show the witness.

23 Can you orient the jury. Just explain to us how is  
24 the site organized and what is the types of information  
25 contained therein?

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1 A Yes, the Palestine Information Center is organized such  
2 that when you first log in, you have a main home page. Back  
3 in during the period in question, back approximately 2001 to  
4 2004. There was actually a section on the left that said the  
5 Hamas movement. On the English section it actually said in  
6 English the Hamas-- Hamas homepage.

7 If you clicked on that, it actually brought you to  
8 the page that is displayed on the screen right now, an English  
9 language home page, for Hamas.

10 You can see on the left-hand side, there are a  
11 number of buttons representing various different options of  
12 what you can view. The top button reads about Hamas; the  
13 second button communicates; the third button, documents; the  
14 fourth button, glory record; the fifth, Hamas leaders, the  
15 sixth button, Hamas homepage, which actually brings you  
16 directly back to this.

17 And then the last one which is PIC homepage, which  
18 brings you back to the main Palestine Information Center  
19 homepage.

20 Q Mr. Kohlmann when was this website first registered?

21 A This website was first registered in approximately  
22 December of 1997.

23 Q Who registered the website?

24 A It was registered, it was created by a Palestinian in  
25 Beirut, Lebanon. However, the first person to register the

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1 domain was a Palestinian here in the United States by the name  
2 of Ziyad Khaleel. Was affiliated with the then head of the  
3 political bureau of Hamas, Musa Abu Marzook.

4 Q Is this website still online today?

5 A It is, yes.

6 Q Do you need any kind of special website-- web password to  
7 access the website?

8 A No. Unlike websites that have been created by terrorist  
9 organizations like al-Qaeda for instance, when it comes to  
10 Hamas, Hamas has been very open about its web presence,  
11 actually made it so that all of its websites are publically  
12 accessible. Virtually all of the material on the websites is  
13 available for almost anyone to download in a multitude of  
14 different languages.

15 Q This website, if I am not mistaken, has been online  
16 between 1997 and today; is that right?

17 A In various iterations, yes.

18 Q How is it that you know if the website remains changed.  
19 It is the same site?

20 A Well, number one because of the fact that the old domain  
21 typically points to the new one. So if they registered  
22 Palestine-info.ps, if you go to Palestine-info.info it would  
23 simply forward you to the next domain.

24 But also sometimes, they will directly announce  
25 that, not to mention the fact that the site themselves whether

1 you go to Palestine-into.net., .com, info, whatever it is, it  
2 is virtually the exact same, it is a mirror.

3 THE COURT: You are both fast talkers.

4 Q Have you yourself reviewed this website over time?

5 A I have.

6 Q Beginning with-- how long?

7 A I began reviewing this website in approximately December  
8 of 1997, January of 1998. I have reviewed the website on a  
9 regular basis since then, however, the period that I reviewed  
10 this website most frequently, would be between again,  
11 approximately January of 1998, and approximately let's say  
12 about January of 2003.

13 Q Can you just tell us when you reviewed the site, what  
14 your process is, do you download anything from the site for  
15 instance?

16 A Yes, my process is multifold. One of the things that I  
17 will do initial upon looking at a site like this, is perhaps  
18 save an entire mirror copy of the site. We use digital tools  
19 to save an entire archive copy of the site, every single page,  
20 every single video. Sometimes within the site, we look for  
21 particular communiques or particular videos or particular  
22 items about interesting events or terrorists attacks that we  
23 were researching. In that case, I would say an individual  
24 file, and say that under a file name where I would immediately  
25 know that it was from this particular website, where it was on



1 the website and what the content was.

2 In some cases it was simple to see what was on the  
3 site and get a picture how the site was developing over time.

4 Q Is there a way today, to know what was on the website  
5 between 2000 and 2004?

6 A Yes.

7 Q What is that?

8 A There is a website on the internet called The Internet  
9 Archive, which maintains something called The Wayback Machine.  
10 The Wayback Machine was designed as a method so researchers  
11 and others, who are seeking to look at Internet websites, as  
12 they were at a particular moment in time, can actually turn  
13 the clock back, and can see a website as it appeared on a  
14 particular date and time.

15 Now, not all websites are covered and they don't  
16 have archive mirrors or every single moment. But with major  
17 websites, you can often see archive copies or basically as  
18 they change over time, day-to-day if not week to week, if not  
19 month to month.

20 Q Have you ever compared the information that you  
21 downloaded from the website at the time you first reviewed it  
22 to the information on the Wayback Machine, the Internet  
23 archive today?

24 A Yes, I have.

25 Q Have you found any differences between the two?

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1 A I have found no material differences between the two.

2 Q Did you in fact do that with respect to the Palestine  
3 information website that we are referring to now?

4 A I did. In fact, the version of the Internet archive that  
5 we are looking at here right now, I personally viewed this, in  
6 December of 2001, when it was contemporaneously online and it  
7 is exactly as I recall.

8 Q You mentioned that there are a number of different parts  
9 of the website that you can check on and go to different  
10 areas. Could you just tell us, what is the Glory Record?

11 A Yes. The Glory Record is like a Hamas military yearbook.  
12 It was designed to serve for the years where Hamas was not  
13 issuing individual communiques for its military operations.

14 So retrospectively, Hamas published what is known as  
15 the Glory Record, which is simply claiming responsibility for  
16 multiple attacks in a group over a space of years. But this  
17 applies to a period in the time passed where Hamas was not  
18 issuing individual communiqués on its website.

19 Q Mr. Kohlmann in your review of this website, what is it  
20 about the site, that led you to believe that this is actually  
21 Hamas' website as opposed to a website operated by someone who  
22 just likes Hamas or is a fan of Hamas?

23 A There are a number of different factors, both extrinsic  
24 as well as intrinsic.

25 As I first stated, happening upon this website was

1 not random. A variety of different sources have endorsed this  
2 particular website as being an official website of Hamas,  
3 including the U.S. government, including the German interior  
4 ministry, including Palestine non governmental organizations,  
5 Jordanian media and others.

6 But, what is more is, if you look at the actual  
7 content of this site, the content of the site tells you a lot  
8 about what it is offering.

9 First of all, as you notice at the very top of the  
10 page, there is a large graphic which in this case, because  
11 this is the English version says in English, "Welcome to the  
12 Islamic Resistance Movement Hamas", and you can actually see  
13 right there, the official Hamas logo on the right-hand side.

14 And of course on the left-hand side, the button that  
15 gets you here is marked Hamas homepage. It is not marked page  
16 in support of Hamas. It is labeled as Hamas Center on the  
17 Internet.

18 And indeed, the information that is offered on this  
19 page would tend to indicate the people operating this website,  
20 have a unique understanding and access within Hamas.

21 First of all, this particular website has offered  
22 exclusive interviews with senior Hamas officials.

23 Number two, if you look at this particular version  
24 of the website, you will notice that it offers not just the  
25 Glory Record, but it offers copies of virtually every single

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1 communiqué issued by Hamas. Almost contemporaneously to when  
2 they are issued. Sometimes within hours of an attack taking  
3 place, the communiqué would be posted directly on this  
4 website.

5 Q What is a communiqué?

6 A Excuse me, a communiqué is an official communication from  
7 a terrorist group. A statement from the terrorist group. The  
8 reason we call communiqué, instead of being simply a news  
9 report or news item, it is officially signed by the  
10 organization at the bottom. It has a date of issuance. It is  
11 meant to be an official statement or official statement of  
12 policy, or claim of responsibility for an organization.

13 And thus it often times has the watermark of that  
14 organization and indeed, the communiqués posted on the site,  
15 carry the watermark of Hamas.

16 If you--

17 Q Is there anything about the Hamas leadership in  
18 particular that indicates to you that this is Hamas website.  
19 If we go to the next slide as opposed to a website maintained  
20 by a fan?

21 A Yes.

22 Now, while Hamas leaders, by and large are not  
23 secret. Hamas has been open about identifying who its leaders  
24 are. This particular website, had details about these  
25 leaders, that frankly were not readily available or available

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1 at all, in December of 2001, when this website was online. On  
2 any other website on the Internet.

3 The details include specifics about where these  
4 individuals were married, how many children they have, where  
5 they were born, where they went to school. These are the kind  
6 of details where again, it is not that they weren't out there.  
7 You could have perhaps put this together from one source or  
8 another, but there was no other website in the Internet that  
9 had this amount of information all in one place in such an  
10 authoritative way.

11 Q Is this an example of one of the bios you are referring  
12 to?

13 A It is.

14 Q Who is this person?

15 A This is the biography of Sheik Ahmed Yassin, the founder  
16 and spiritual leader of Hamas. You will notice on here it has  
17 the exact year of birth, the exact village, and the district  
18 of the Gaza Strip he was born in. How he was injured and  
19 actually handicapped, his early education and his early work.  
20 The fact that he was a chairman of the Islamic complex.

21 Again, these are details where if you were based in  
22 the Gaza Strip, and you had access to voluminous paper  
23 documents at this time, you might have been able to put this  
24 together. But putting it all together on a single website all  
25 in one place, was quite impressive and spoke quite a great

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1 deal about the authenticity of this website.

2 Q Just look quickly at one more. Can you describe for us  
3 who this individual is on the website?

4 A Yes, this is the founder of Hamas' military wing, Shayth  
5 Ahmed Yassin. Once again, here you see the photo of Yassin,  
6 which is again not unusual. But if you see on the left it has  
7 the exact camp within Gaza, the beach camp and day he was  
8 born. Very specific details as to his schooling, his  
9 secondary school certificate with outstanding grades. The  
10 fact that he was-- financial circumstances, he could not study  
11 the way he wanted to. His eventually higher education in  
12 Egypt. These are very specific details, these are not the  
13 kind of details you would have found readily on any other  
14 website in the Internet at this particular time. Certainly  
15 not in English.

16 Q I would like to show Mr. Kohlmann, Exhibit 3544, please.

17 THE COURT: Just show it to him.

18 MR. ELSNER: Just to him for now.

19 I have the wrong Exhibit number, it is 4767, my  
20 apologies.

21 THE COURT: Okay. He has it.

22 Q Mr. Kohlmann, you mentioned Hamas?

23 A I don't have it on my screen.

24 THE COURT: No, you don't, but you should.

25 Counsel do you have it on your screen?

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1 THE COURT: There you go.

2 Q Before you to go the content of the information. Mr.  
3 Kohlmann, can you describe to us what this is and whether you  
4 relied upon it to form a basis for your opinion?

5 A Yes, this is an English language version of a communiqué,  
6 posted on the Internet by the Islamic resistance movement  
7 Hamas, yes, I did rely on it.

8 Q Did you download this yourself from the Internet?

9 A I did.

10 MR. ELSNER: I would like permission to publish this  
11 to the jury?

12 THE COURT: Any objection?

13 MR. STEPHENS: Yes, 803, a web capture.

14 THE COURT: Let's have a sidebar, please.

15 (Sidebar.)  
16  
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- Sidebar -

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1 THE COURT: Why is it not hearsay?

2 MR. ELSNER: Falls within the exception, Your Honor,  
3 it is a statement against penal interest.

4 THE COURT: It is hard for me to see.

5 MR. ELSNER: I can get you a full copy.

6 THE COURT: Put on the jury white noise, please.

7 MR. ELSNER: The very top identifies responsibility  
8 for the attack.

9 THE COURT: Mr. Stephens seems like a declaration  
10 against interest.

11 MR. STEPHENS: Your Honor, the declaration against  
12 interest is not being used against the party. Hamas is not a  
13 party here. The party here is the bank.

14 THE COURT: The declarant's interest is always  
15 against a nonparty, otherwise it is an admission, it doesn't  
16 have to be against-- the objection is overruled.

17 (Open Court.)

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1 THE COURT: The exhibit is received.

2 (So marked, Exhibit 4767.)

3 MR. ELSNER: May we publish it to the jury.

4 THE COURT: It is coming. There is a little delay.

5 They upgraded us to a digital system.

6 You may proceed.

7 BY MR. ELSNER:

8 Q Mr. Kohlmann, can you identify this document?

9 A Yes. This is a communiqué or English translation of a  
10 communiqué published by Palestine-info.net on March 27th,  
11 2002, which purports to be a communiqué from the al-Qassam  
12 Brigades, the Izz ad-Din al-Qassam Brigades, the military wing  
13 of Hamas, claiming responsibility for the bombing, or the  
14 suicide bombing of the Park Hotel in Netanya.

15 Q What is the Park Hotel, can you give us a brief  
16 description of what that bombing is?

17 A Sure, on March 27, 2002, there were celebrations in  
18 preparation at the -- in hotel for the holiday of Passover. A  
19 suicide bomber from Hamas, named Abdel Basset Odeh. Marched  
20 into the hotel, blew himself up, killing 30 people, and, you  
21 know, wounding nearly two hundred others.

22 The attack was as you can see right here in this  
23 communiqué, claimed almost immediately by Hamas.

24 Q Is this one of the 24 attacks you analyzed for this case?

25 A That's correct, yes.

1 Q What is it about this particular communiqué that  
2 indicates to you, that it is an authentic claim of  
3 responsibility by Hamas?

4 A Well, again, aside from the fact that the sourcing, the  
5 fact it comes from a website we now to be an authentic channel  
6 for Hamas, there are very specific details in here which tell  
7 you that the person that wrote this had intimate knowledge of  
8 the attack.

9 First of all, the individual who was later verified  
10 to be indeed the attacker is named in the communiqué,  
11 specifically, his age is given.

12 What is more, there is very specific language here,  
13 in terms of why this attack was launched. The attack, the  
14 language, excuse me, of why the attack was launched, is the  
15 exact same language that was used by Hamas leaders, spokesman  
16 when they were interviewed in the other media sources.

17 In other words, independent media sources they used  
18 the exact same language and indicated that Hamas indeed was  
19 responsible for this attack.

20 Q What is the language that you are referring to in this  
21 specific document?

22 A The language that I'm referring to, is actually in the  
23 third highlighted paragraph towards the bottom. The operation  
24 is one of a series of big operations prepared as a simple and  
25 modest gift to terrorist Sharon.

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1 Q Who is Sharon?

2 A Sharon was Ariel Sharon at the time the prime minister of  
3 Israel.

4 Q Is this document signed?

5 A I believe it is, yes.

6 Q Can we see that.

7 What is it signed by and what is the significance of  
8 that?

9 A Following the final sentence which is a trademark Hamas  
10 statement at the end of the statements, you see, al-Qassam  
11 Brigades, which is short for the Martyrs Izz ad-Din Al-Qassam  
12 Brigades, the official military wing of the Hamas movement in  
13 Palestine.

14 Q That line above it. And it is the jihad until either  
15 victory or martyrdom?

16 A Yes.

17 Q What is the significance or meaning?

18 A This is a statement that is included in many many Hamas  
19 communiqués, kind of a final statement, something popular  
20 raised during the 1980's particularly by individuals  
21 responsible for helping to found Hamas, such as Sheik Abu  
22 al-Hassan

23 Q Sir, have you compared this communiqué with other  
24 communications, authentic communications by Hamas claiming  
25 responsibility for the Park Hotel bombing?

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1 A I have, yes.

2 Q What particular -- did you compare that to?

3 A In specific, I compared to it to an interview with the  
4 senior spokesman for Hamas, on CNN television.

5 Q And, did you yourself review that video?

6 A I did, yes.

7 Q And, you made that comparison between that statement and  
8 this statement?

9 A I did, yes.

10 MR. ELSNER: Your Honor, with your permission, I  
11 would like to show this to the jury.

12 THE COURT: All right. You may.

13 MR. STEPHENS: What is it?

14 MR. ELSNER: I'm sorry, before we do that, I would  
15 like to move into evidence Exhibit 4767.

16 THE COURT: Any objection?

17 MR. STEPHENS: May I approach for a moment, please.

18 THE COURT: Sure.

19 (Sidebar.)

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1 THE COURT: Okay.

2 MR. STEPHENS: According to this witness, the reason  
3 why these communiqués are issued, why responsibility is taken  
4 for an attack, is because the organization or the movement  
5 thinks that it helps with recruiting, helps with getting  
6 funding, et cetera, et cetera.

7 In that way, it is not against their interests at  
8 all. In fact, it is what they do. The whole reason why an  
9 attack is perpetrated is to publicize the fact that this  
10 organization is somehow doing that, and moving forward some  
11 agenda.

12 THE COURT: First of all, I think that is not the  
13 exhibit that you are showing right now, right?

14 MR. ELSNER: No, Your Honor, I will show the Hamdan  
15 interview.

16 THE COURT: This is the Hamdan interview. Are you  
17 going go back to the prior?

18 MR. STEPHENS: No. What he was about to show is  
19 what I'm trying to address. It is the same issue, Your Honor,  
20 which is it is not against their interest.

21 THE COURT: The fact --

22 MR. STEPHENS: They are actually doing it for a  
23 reason. And the reason they say is in their interest.

24 THE COURT: Look, it is very rare that a declarant  
25 against interest ever makes a statement for no other purpose

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1 than getting himself in trouble. He will frequently have some  
2 other purpose. But the fact of the matter is, he might have  
3 some pause and hesitation and have to balance whether getting  
4 himself in trouble, is worth the benefit of making the  
5 statement.

6 He-- declarant measures that, that balance in every  
7 declaration he makes. I think it is very clear that this had  
8 potential exposure to the declarant so I'm overruling the  
9 objection.

10 (Open Court.)

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1 MR. ELSNER: Your Honor, before we go on, I wanted  
2 to admit into evidence Exhibit 4767, the Hamas communiqué.

3 THE COURT: That is received.

4 (So marked.)

5 MR. ELSNER: Thank you Your Honor.

6 BY MR. ELSNER:

7 Q Mr. Kohlmann, you were, before we broke, referring to an  
8 interview a CNN, I would like to show that now to the jury,  
9 please.

10 THE COURT: All right.

11 MR. ELSNER: It is Exhibit 3580, Your Honor.

12 (Video played.)

13 BY MR. ELSNER:

14 Q Mr. Kohlmann, when was this interview taken?

15 A This interview was actually the same evening as the  
16 attack, March 27, 2002.

17 Q What is it about this interview which indicates to you  
18 that the website, Palestine-info, is an authentic Hamas  
19 website, and that this is an authentic statement of  
20 responsibilities?

21 A Well, number one, again, you senior Hamas spokesman here,  
22 Usama Hamdan, indicating indeed Hamas was responsible. He  
23 indicates it was indeed the al-Qassam Brigade, the military  
24 wing, and identifies the specific cell of the Izz ad-Din  
25 al-Qassam brigade. The cell indicated by the communiqué.

1           What is more, is that Palestine-info.net, the same  
2 website that published the communiqué has also published  
3 exclusive interviews with Usama Hamdan, which he openly  
4 acknowledge this is a Hamas website.

5           So if this individual is being interviewed and  
6 confirming that Hamas was indeed responsible for the attack,  
7 he has been issued on the same website claiming credit for the  
8 attack. The communiqué and his accounts seem to dovetail  
9 exactly. That would indicate to me that the communiqué is  
10 indeed an official statement of Hamas.

11 Q     Was there a particular phrase in his interview that also  
12 appears in the communiqué that indicated to you, that it is  
13 authentic statement by Hamas?

14 A     I believe he also refers it as the gift to Sharon.

15 Q     The same as in the communiqué we saw, the prior exhibit?

16 A     Correct, yes.

17           MR. ELSNER: Your Honor, I would like to move into  
18 evidence, Exhibit 3580.

19           THE COURT: Any objection?

20           MR. STEPHENS: Yes, Your Honor.

21           THE COURT: The same objection.

22           MR. STEPHENS: Yes.

23           THE COURT: Overruled.

24           (So marked.)

25           MR. ELSNER: Thank you, Your Honor.



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1 Q Mr. Kohlmann, who is Usama Hamdan.

2 A He is a senior official with the Hamas political bureau,  
3 he is their official spokesman in Beirut, Lebanon.

4 Q And, we have been looking at the Palestine information  
5 website in English. Was it published in other languages?

6 A Yes, it was.

7 Q Was it published in Arabic?

8 A Yes, it was.

9 Q Is there anything, uniquely different about the Arabic  
10 version of the website versus the English version of the  
11 website?

12 A Starting within a few, within a few months if not years  
13 after the website began, yes, small differences began to  
14 emerge between the English language and the Arabic language  
15 versions of the site.

16 Q And, can you explain any significant differences?

17 A One difference was that starting in approximately 2002,  
18 the Arabic version of the site, included a call for donations,  
19 solicitation for donations in support of jihad by words. To  
20 support independent Palestinian media and support the  
21 Mujahideen, individuals who wanted to support these different  
22 causes were urged to send their donations to the Palestinian  
23 Information Center.

24 MR. ELSNER: Your Honor, I would like to publish for  
25 the jury Exhibit 289.

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1 THE COURT: I want to make sure, have you moved 289  
2 into evidence?

3 MR. ELSNER: I have not moved it into evidence.

4 THE COURT: We need it in evidence before you show  
5 it to the jury.

6 MR. ELSNER: I'm sorry, Your Honor.

7 Can we show Mr. Kohlmann, Exhibit 289.

8 Q Mr. Kohlmann, do you recognize the document Exhibit 289?

9 A Yes, I to.

10 Q What do you recognize it to be?

11 A This is an English translations of a web page from the  
12 Arabic language version of Palestine Information Center  
13 website.

14 Q And, did you review this information to form the basis of  
15 your expert opinion?

16 A I did. I reviewed both the Arabic original as well as  
17 English translation.

18 Q Did you download it yourself from the Internet?

19 A The Arabic original, yes, I did.

20 MR. ELSNER: Your Honor, I would like to publish it  
21 the jury.

22 THE COURT: Let's have a sidebar.

23 (Sidebar.)  
24  
25

- Sidebar -

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1 THE COURT: I'm not seeing how this one is against  
2 interest. It is raising money, but it doesn't tie it to any  
3 criminal acts.

4 MR. ELSNER: It is the exact item that we discussed  
5 before this morning, that refers to raising money in support  
6 of holy warriors, it is the exact same slide we used this  
7 morning.

8 THE COURT: Support of holy warriors?

9 MR. ELSNER: And the Intifada.

10 MR. OSEN: The account number is the same one, that  
11 says Hamas on it in the transactions that were discussed in  
12 opening.

13 THE COURT: The question is not relevant, it is  
14 clearly relevant. The question is, is it a declaration  
15 against interests or otherwise admissible.

16 And I take it Mr. Stephens, your view is that the  
17 reference to the Intifada and holy warriors is not in raising  
18 money for them, is not sufficient to make it against  
19 interests?

20 MR. STEPHENS: Yes.

21 MR. ELSNER: It is a violation of the ATA Your  
22 Honor.

23 THE COURT: That's right.

24 For that reason, I will overrule the objection.

25 MR. STEPHENS: I have another objection.

- Sidebar -

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1 THE COURT: Okay.

2 MR. STEPHENS: This is an Arabic language.

3 THE COURT: Yes.

4 MR. STEPHENS: Followed by English language.

5 THE COURT: Yes.

6 MR. STEPHENS: He doesn't read Arabic. He cannot  
7 testify. He is not qualified to testify that that actually  
8 says this or this, says that or what the difference is.

9 THE COURT: Do you really dispute it or are you just  
10 making a technical point?

11 MR. STEPHENS: I am suggesting.

12 THE COURT: I will require them to get an Arabic  
13 interpreter to put on the stand later to do a contemporaneous  
14 translation and it will take more time. If you know that is  
15 where it is going.

16 MR. ELSNER: We have certified translation attached  
17 to our English translation that has been provided to them.  
18 This is the first time I heard there is a problem with the  
19 translation.

20 MR. STEPHENS: It is not a question of that. He  
21 just asked the witness if there is a difference between Arabic  
22 and English.

23 THE COURT: If it is a certified translation, I say,  
24 you can cross examine him on that. That doesn't go to  
25 admissibility, that is fine. I will overrule that.

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1 (Open court.)

2 MR. ELSNER: Your Honor, publish to the jury,  
3 Exhibit 289.

4 THE COURT: Yes, the document has been received in  
5 evidence.

6 BY MR. ELSNER:

7 Q Mr. Kohlmann, the original is an Arabic; is that right?

8 A That's correct, yes.

9 Q Do you read Arabic?

10 A No, I do not.

11 Q How is it that you are able to interpret and understand  
12 the language in this document?

13 A Well, in this particular case, I actually had native  
14 language Arabic translators work on my staff. I actually  
15 particularly gave this to them and I asked them to create a  
16 translation of it. I believe I was also provided a  
17 translation as well by plaintiffs' counsel.

18 Q Do you use translators in the course of your work and for  
19 how long have you done so?

20 A I have used-- yeah, it is an integral part of what I do.  
21 I have used native language translators in the work I have  
22 done since approximately 1998. I have had a full time Arabic  
23 linguist working alongside me throughout much of this time.

24 Q Have you used any other tools to help you with the  
25 translation over time?

1 A Yes. During the period in question, during approximately  
2 2001, to 2004, I was also subscriber to a service known as tar  
3 gee may Jim. A simultaneous translation service from Arabic  
4 to English, created encryption software come, known as soccer  
5 software. Rather expensive service, it costs quite a bit of  
6 money.

7 However at the time, it was one of the very few  
8 services on the Internet which provided any kind of  
9 simultaneous Arabic to English translation.

10 It should be noted though, in terms of documents  
11 like this, in terms of obtaining official translations relying  
12 on translations, all translations will be done by human  
13 translators.

14 Q Where was this document taken from, sir?

15 A This particular document was saved from the Palestinian  
16 Information Center website.

17 Q In the Arabic version does it refer a particular account?

18 A Yes, it does. Actually you can see, right there, the  
19 poster at the very bottom, you can see there, there is an  
20 account number, some Arabic language, the account number is  
21 written again. And then it says, Mazraa, Arab Bank, Beirut.

22 Q Is the account branch and number there, in English or  
23 Arabic?

24 A It is in Arabic. It is al-Mazraa branch. Arab Bank,  
25 Beirut.

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1 Q Beneath it?

2 A Then written in English, sorry.

3 Q And, Arab Bank is that the defendant in this case?

4 A Correct.

5 (Transcript continues on next page.)

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1 (CONTINUING)

2 Q Let's put up the English version. This is the  
3 translation.

4 How are people instructed to donate money to Hamas  
5 through the Palestine information website?

6 A Those seeking to donate to the Palestinian Information  
7 Center in order to help the blessed al-Aqsa mosque, the  
8 intifada, in order to support the Mujahideen, which in this  
9 case is translated as holy warriors and spread the word about  
10 their heroic and brave resistance, individuals are instructed  
11 to wire donations. In other words, wire from a bank to this  
12 particular bank account at the Arab Bank, the Al-Mazra branch.

13 Q Okay. What is it about this particular document, sir,  
14 that indicates to you that this is an authentic Hamas website  
15 and not a website maintained by some other group?

16 A Well, again this is the same, this is the Palestinian  
17 Information Center. This is the same website that has the  
18 complete archive of every communiqué being issued by Hamas as  
19 being as they are being issued. It has a copy of the glory  
20 record, detailed biographies of all of their leadership, it's  
21 carrying an exclusive interviews with senior Hamas leaders  
22 including Osama Hamdan, it's being recognized by extrinsic  
23 sources including the U.S. Government, the German Government  
24 and others as being the political voice of the political  
25 bureau of Hamas.



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1 Q Do you know, sir, whether such as account exists at Arab  
2 Bank in Lebanon?

3 A I do, yes.

4 Q How do you know that?

5 A Because of the fact that I have been provided with  
6 records that I understand have been turned over to Plaintiffs'  
7 Counsel by the Defense, which are relevant to this particular  
8 account.

9 MR. ELSNER: I'd like to show the witness,  
10 Your Honor, Exhibit 144.

11 THE COURT: Okay.

12 Q Sir, without disclosing the content of the document, can  
13 you tell us, is this one of the documents that you've  
14 reviewed?

15 MR. STEPHENS: Excuse me, Your Honor, I don't  
16 believe he's being offered as an expert on anything that has  
17 to do with this.

18 THE COURT: No, this is part of the basis of his  
19 opinion.

20 Overruled.

21 A Yes, I have.

22 Q Okay. And what do you understand this document to be?

23 A I understand this document to be a SWIFT record. In  
24 other words, a record of a bank transfer, in this case the  
25 recipient being the Arab Bank.

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1 Q Okay. And sir, do you have any expertise in reviewing  
2 SWIFT transactions? Do you do that as a component of your  
3 work?

4 A I do, in the sense that I personally have wired money  
5 internationally, so I have had to fill out these forms and I  
6 recognize what SWIFT records look like.

7 In addition, I have reviewed these type of records  
8 when I have conducted investigations of terrorist financing or  
9 suspected terrorist financing.

10 Q Okay. Are you a banking expert?

11 A No.

12 MR. ELSNER: Your Honor, I'd like to publish to the  
13 jury Exhibit 144, please.

14 THE COURT: Any objection?

15 MR. STEPHENS: No objection.

16 THE COURT: Okay, received.

17 (Plaintiffs' Exhibit 144 was received in evidence.)

18 Q Sir, who is the beneficiary customer as listed on this  
19 particular Arab Bank document?

20 A The beneficiary customer is the same account number that  
21 is listed on the website from the Palestinian Information  
22 Center and the name of the beneficiary customer here is listed  
23 as the Palestine Information Center.

24 Q And what is it about this document which indicates to you  
25 that the Palestine Information Center website is an authentic

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1 website?

2 A It's an authentic website for?

3 Q For Hamas?

4 A In this particular document, nothing. It simply says the  
5 Palestinian Information Center.

6 Q And that's the site we were referring to earlier, the  
7 Palestinian Information website?

8 A Correct, yes.

9 Q Was there anything about your review of the Arab Bank  
10 documents that you were provided from this account which  
11 informed your decision as to whether or not the Palestine  
12 Information website that we were looking at is actually an  
13 official website of Hamas?

14 A Yes.

15 Q What is that?

16 A In this particular record the beneficiary customer is  
17 listed as the Palestinian Information Center. However, in  
18 other records from the same account, transfers were also  
19 listed with the name of the beneficiary as either Hamas,  
20 Harakat al Muqawamah al Islamiyah -- in other words, the  
21 Islamic resistance movement Hamas -- or alternatively, Osama  
22 Hamdan, the individual that I recognize to be a senior  
23 spokesman for Hamas.

24 MR. ELSNER: Your Honor, I'd like to move into  
25 evidence Exhibit 144.

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1 THE COURT: The way we're going to work this is  
2 first, you have to show it to the witness and then the witness  
3 has to lay the foundation.

4 MR. ELSNER: Your Honor, this is the document we've  
5 looked at.

6 THE COURT: I have received it already. You laid  
7 the foundation, I asked for objection, Mr. Stephens said no,  
8 it's in evidence.

9 MR. ELSNER: I'm sorry.

10 Can we show the witness Exhibit 136, please.

11 Q Mr. Kohlman, can you describe to us what this Exhibit is?

12 A Yes. This appears to be a transfer, a bank transfer that  
13 was sent on October 16th, 2000.

14 Q Just in a general way without revealing the contents?

15 THE COURT: Generically.

16 THE WITNESS: Generically, excuse me, Your Honor.

17 A Generically, it's a copy of a SWIFT record. In other  
18 words, a record of a bank transfer.

19 Q Is this one of the documents that you viewed to form your  
20 opinion?

21 A It is.

22 Q Is this one of the Arab Bank documents?

23 A It is.

24 MR. ELSNER: Your Honor, I would like to publish it  
25 to the jury and move it into evidence.

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1 THE COURT: Any objection?

2 MR. STEPHENS: No objection.

3 THE COURT: When you say publish, I view that as an  
4 offer because you can't publish it unless it's been received.

5 So, I am receiving it and we will now publish it.

6 (Plaintiffs' Exhibit 136 was received in evidence.)

7 (The above-referred to Exhibit was published to the  
8 jury.)

9 Q Mr. Kohlman, how is the beneficiary customer listed in  
10 this transaction from Arab bank's records?

11 A Yes, once again, the account number is exactly the same  
12 as it is listed on the website. However, here the beneficiary  
13 customer has been named as Harakat al Muqawamah al Islamiyah  
14 Hamas, so if there was any question about whether or not this  
15 was Hamas, it doesn't just say Harakat al Muqawamah al  
16 Islamiyah. It actually also says Hamas.

17 MR. ELSNER: And I'd like next to introduce, show  
18 the witness, Exhibit 103, Your Honor.

19 I'm sorry, Exhibit 106.

20 Q Can you generically describe for you what this document  
21 is?

22 A This is a copy of another SWIFT record. A record of a  
23 bank transfer.

24 Q Is it one of the documents you reviewed in this case?

25 A Yes, it is.

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1 Q Okay. And whose document is it?

2 A This is again, it's a transfer to Arab Bank, particularly  
3 here the Mazra'a branch in Beirut.

4 MR. ELSNER: Your Honor, I would like to move this  
5 into evidence.

6 THE COURT: Any objection?

7 MR. STEPHENS: No objection.

8 THE COURT: Received.

9 (Plaintiffs' Exhibit 106 was received in evidence.)

10 Q Mr. Kohlman, can you describe to us how the beneficiary  
11 customer is listed in this transaction?

12 A Yes. Once again, the beneficiary customer, at least the  
13 account number, is listed as the exact same account number as  
14 it is on the Palestinian Information Center website.

15 However, in this case, the name of the beneficiary  
16 here is simply listed as Hamas organization.

17 Q What is it about these two transactions that we just  
18 reviewed where the beneficiary customer is listed as Hamas  
19 that informed your decision as to whether or not the Palestine  
20 Information Center is an official Hamas website?

21 A Well, when you fill out these forms, the person sending  
22 the money is the person who writes in the name of the  
23 beneficiary. So, this would tend to indicate that the people  
24 who sent these transfers to this account believed that they  
25 were sending money to Harakat al Muqawamah al Islamiyah or the

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1 Hamas organization. Not simply the Palestinian Information  
2 Center.

3 Q Now, Mr. Kohlman, do you know who opened this bank  
4 account at Arab Bank?

5 A I do, yes.

6 Q Who was that?

7 A The person who opened up this account was an Egyptian  
8 passport holder by the name of Osama Hamdan.

9 MR. ELSNER: I'd like to show the witness  
10 Exhibit 102.

11 THE COURT: I think he's got it.

12 Q Mr. Kohlman, do you recognize this document?

13 A I do. Yes.

14 Q And is this one of the documents you relied upon to form  
15 the basis of your opinion?

16 A It is, yes.

17 Q And what do you generically recognize it to be?

18 A I recognize it to be an application for opening account  
19 at the Arab Bank, an Arab Bank branch.

20 MR. ELSNER: Your Honor, I'd like to move this into  
21 evidence.

22 MR. STEPHENS: No objection.

23 THE COURT: All right. Received.

24 (Plaintiffs' Exhibit 102 was received in evidence.)

25 Q Mr. Kohlman, does the document indicate the account

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1 number for this particular account?

2 A I'm sorry, can you repeat the question?

3 Q Does the document indicate an account number for this  
4 account?

5 A Yes, it does.

6 Q What's the significance?

7 A It is the exact same account number that's listed on the  
8 application for opening account as the account number that is  
9 listed on the Palestinian Information Center website for  
10 donations.

11 Q Okay. And who is the account number listed to, if you go  
12 to the English translation?

13 A Well, the account number is listed for, as you can see  
14 there, first name Osama Hamdan abdelatif Hamdan, in other  
15 words, Osama Hamdan date of birth 1965, country of residence  
16 or place of residence in this case, Beirut, Lebanon.

17 Q Now, Mr. Stephens said in opening that the Osama Hamdan  
18 that opened this account is the same Osama Hamdan who is the  
19 spokesman for Hamas.

20 Do you agree with that conclusion?

21 A Yes.

22 Q Are there any other records that you looked at to help  
23 you lead to that conclusion?

24 A In addition to the fact that this person is named Osama  
25 Hamdan, is born the same year as Osama Hamdan, is living in



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1 Beirut, Lebanon -- so, the same place that we know the  
2 spokesman for Hamas to be -- I've also reviewed a copy of the  
3 passport, a photocopy of the passport of the individual who  
4 opened this account.

5 MR. ELSNER: Can we show the witness Exhibit 103,  
6 which for some reason I'm not exactly sure, also includes  
7 Exhibit 104 and 105. It's the same document.

8 Q Mr. Kohlman can you generically describe to us you what  
9 this document is?

10 A Yes, it's a copy of an Egyptian passport. A photocopy of  
11 an Egyptian passport.

12 Q And did you review that document in forming your opinion?

13 A Yes.

14 Q And from whom did this document come from, whose file?

15 A My understanding is that this document was turned over to  
16 Plaintiffs' Counsel by the defendants.

17 MR. ELSNER: Your Honor, I'd like to move this into  
18 evidence.

19 MR. STEPHENS: No objection.

20 THE COURT: All right. Received.

21 (Plaintiffs' Exhibit 103 was received in evidence.)

22 Q Mr. Kohlman, is this the passport that you were referring  
23 to?

24 A It is, yes.

25 Q And how is it you conclude that this is the Osama Hamdan

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1 who is the spokesman for Hamas?

2 A Well, the photograph here is grainy and it's not great  
3 quality, it's fairly clear that the person shown in the CNN  
4 video and the person that's been featured in numerable  
5 photographs of Osama Hamdan bears a very, very strong  
6 resemblance to the person featured in this photograph.

7 Q Was Osama Hamdan -- let me ask, at the time that these  
8 transfers were made in 2000, 2002, the beneficiary customer  
9 named Hamas, was Hamas designated as a terrorist organization?

10 A Yes.

11 Q And was Osama Hamdan designated as a terrorist, a  
12 specially designated global terrorist at that time?

13 A Not by name, no.

14 Q What do you mean not by name?

15 A Well, when the U.S. Government designates an organization  
16 as a terrorist organization, there is then a flat ban on  
17 anyone providing support or material assistance to that  
18 organization. But that ban applies not just to the  
19 organization itself, it also applies to all of the officers of  
20 that organization, all the leaders of at that organization,  
21 people fighting with that organization. In other words,  
22 anyone affiliated with that group is subject to the same  
23 punishments, the same restrictions as the organization itself.

24 So, even if you're not individually named, if you're  
25 fighting for a terrorist organization, if you're a spokesman

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1 for a banned terrorist organization, you're engaged in illicit  
2 conduct.

3 Q Was there some point in time where Osama Hamdan himself  
4 was designated as a specially globally designated terrorist?

5 A Yes.

6 Q When was that?

7 A In the subsequent year, in 2003.

8 Q Okay.

9 MR. ELSNER: I'd like to show the witness Exhibit  
10 1248, please.

11 THE COURT: I don't suppose you're wrapping up  
12 shortly?

13 MR. ELSNER: I did have a bit more, Your Honor.

14 THE COURT: I'm not pressuring you, I'm just  
15 inquiring. Do you think you would be done in 15 minutes?

16 MR. ELSNER: It might take me a little longer than  
17 that. I'd be happy to take a break.

18 THE COURT: Is this a good time for you to break?

19 MR. ELSNER: This would be fine to take a break now,  
20 Your Honor.

21 THE COURT: Ladies and gentlemen, let's take our  
22 morning recess. Please, resist any temptation to talk about  
23 the case or the attorneys or me or anything in the case. Keep  
24 an open mind. Try to hang around back here because this will  
25 be a short break, so we'll see you back here in 15 minutes.

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1 Thank you very much.

2 THE COURTROOM DEPUTY: All rise.

3 (Jury exits.)

4 (In open court; outside the presence of the jury.)

5 THE COURT: Okay. Recess, 15 minutes.

6 (Recess taken.)

7 (In open court.)

8 (Judge BRIAN M. COGAN enters the courtroom.)

9 THE COURT: All right, let's have the jury back,  
10 please.

11 THE COURTROOM DEPUTY: All rise.

12 (Jury enters.)

13 THE COURT: You can all sit down in the jury box  
14 when you come in because we are all standing for you. Once  
15 you sit down, we sit down.

16 All right, everyone may be seated.

17 Let's continue the examination.

18 BY MR. ELSNER:

19 Q Mr. Kohlman, when we broke, you were telling us that  
20 Osama Hamdan himself had been designated; is that right?

21 A That's correct, yes.

22 MR. ELSNER: I'd like to show the witness  
23 Exhibit 1248.

24 Q Would you generally describe it for us, sir?

25 THE COURT: It's not coming up there, just the

1 witness.

2 Q What do you recognize this document to be, sir?

3 A This is a press release from the U.S. Treasury Department  
4 which announces a measure that was taken by the U.S.  
5 Government. It was actually first announced in the Federal  
6 register.

7 Q And did you review this document to prepare for your  
8 testimony today?

9 A I did, yes.

10 Q Does it form the basis of your opinion?

11 A Yes.

12 MR. ELSNER: Your Honor, I'd like to move this  
13 document into evidence.

14 THE COURT: Any objection?

15 MR. STEPHENS: No objection.

16 THE COURT: All right, it is received.

17 (Plaintiffs' Exhibit 1248 was received in evidence.)

18 Q Sir, what is this document?

19 A This is an announcement from the U.S. Treasury Department  
20 announcing that they have designated new entities under  
21 legislation designed to create a class of individuals or  
22 organizations known as SDGTs or specially designated global  
23 terrorists.

24 Q For what reason does the U.S. Government say that Osama  
25 Hamdan was designated in this way?

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1 A In this case, Mr. Hamdan has been designated because of  
2 the fact that he served as a senior Hamas official based in  
3 Lebanon, he has worked with Hamas, Hezbollah and other  
4 terrorist organizations including in support of the movement  
5 of weapons, explosives and personnel to the West Bank in Gaza  
6 and finally, his role in serving as a means for individuals to  
7 provide money in terms of charitable donations to Hamas for  
8 distribution to the families of Palestinian quote, unquote  
9 martyrs to support Hamas military operations.

10 Q Does this mean that Osama Hamdan became a terrorist on  
11 the day this was issued?

12 A No.

13 MR. STEPHENS: Objection, Your Honor.

14 THE COURT: Sustained in that form.

15 Q Are the designations of specially globally designated  
16 terrorists prospective or retrospective?

17 MR. STEPHENS: Objection Your Honor.

18 THE COURT: Overruled.

19 A They are retrospective.

20 Q Can you explain to us what that means?

21 A This particular designation applies to activities that  
22 Mr. Hamdan engaged in prior to 2003. Since these designations  
23 are typically issued on an annual basis, that would tend to  
24 suggest that this designation is as a result of Mr. Hamdan's  
25 activities, particularly in the year 2002.

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1 MR. ELSNER: Okay. I'd like to show the next  
2 demonstrative Exhibit to the witness, please?

3 Q Mr. Kohlman, this is a slide that the jury has seen  
4 before in Mr. Stephens's opening statement and I would like  
5 you to tell us whether you agree or disagree with the points  
6 that he makes here concerning Hamas?

7 THE COURT: Do you want this shown to the jury?

8 MR. ELSNER: Yes, please.

9 A There are a number of points here that I would dispute.  
10 Sorry, go ahead? Okay.

11 So, most importantly, first of all, Hamas is not  
12 just like any criminal organization and by and large it is not  
13 secret, clandestine or covert other than explicitly in its  
14 military operations. This is because Hamas views itself as a  
15 sub-state entity. It views itself as a nationalist movement  
16 that wants to eventually become a Government and in order to  
17 do that, you have to have public leaders with a public face.

18 In contrast to groups like al-Queda, where the  
19 leaders tended to mask themselves or hide their real  
20 identities, Hamas, even senior Hamas leaders, are often  
21 featured in video recordings, photographs, their real names  
22 are given.

23 In the case of Palestinian Information Center, even  
24 details about their children were published online. You would  
25 never find that from a clandestine criminal organization and

1 you certainly wouldn't find that from an organization like  
2 al-Queda.

3 You see here also things like no central repository.

4 Hamas has made it very clear that it views its  
5 website -- websites, actually plural -- particularly the  
6 website of its Izz ad-Din al-Qassam brigades, the website of  
7 its military wing, as being the central repository for  
8 information about the movement, about individuals who fight  
9 with the movement, about its leadership. It's told people  
10 specifically that if information does not come from its  
11 website, that it is illegitimate.

12 The idea that it has no officers. Hamas certainly  
13 has officers. Hamas has named officers. Individuals that are  
14 in charge of the movement, people that are official spokesmen.  
15 These are all individuals who are not just identified by  
16 pseudonyms, but as we'll see in the video of Mr. Hamdan, these  
17 individuals are openly identified with their real names and  
18 their real faces. And they have been for many years.

19 Hamas also pays salaries to people, so it does have  
20 employees. And again, as to the question about whether or not  
21 Hamas's senior operatives, activists, supporters, affiliates,  
22 sympathizers identify themselves, the answer is that by and  
23 large they do identify themselves. Hamas carries out public  
24 rallies in Palestinian territories. It carries out open  
25 rallies elsewhere around the world. Hamas supporters openly



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1 identify themselves as Hamas leaders for the most part  
2 identify themselves.

3 Even individuals responsible for recruiting suicide  
4 bombers, though they are reluctant to release certain details  
5 about their background, they are still known by name.

6 Q Mr. Kohlman, over the time that you were accessing the  
7 Palestinian Information website, did you always type in the  
8 exact domain Palestineinfo.com or did you access it in other  
9 ways?

10 A No, I accessed it in other ways as well.

11 Q Can you explain what you mean?

12 A Yes. Occasionally, we would see whether or not there are  
13 any other websites that are either purporting to be the  
14 Palestinian Information Center or whether or not any new  
15 domain names had emerged for the Palestinian Information  
16 Center that we were unaware of. In other words, mirror names.  
17 Instead of Palestineinfo.net, Palestineinfo.com, or  
18 Palestine-Info.info.

19 Q I was asking whether you were using search engines in  
20 order to access?

21 A Exactly. So, we would use a search engine such as Google  
22 or AltaVista or Yahoo to search and see whether or not there  
23 are any other iterations of this website that exist at a given  
24 moment in time.

25 Q And over time, if you put in Hamas into one of your

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1 search engines, what would you turn up?

2 A Well, in 2009, when I conducted searches for this for my  
3 expert report in this case, when you searched for Hamas  
4 website in Google, among the top five results was the  
5 Palestinian Information Center.

6 Q You mentioned two websites. You mentioned a website for  
7 the political bureau and then you mentioned a website for the  
8 military arm of Hamas.

9 What is that website for the military arm of Hamas,  
10 in your opinion?

11 A The website for the military arm of Hamas is currently  
12 known as alqassam.ps. It has had a variety of other domain  
13 names during the period of its existence because it has lost  
14 domain names due to belligerent activity by its enemies, its  
15 adversaries?

16 Q Okay. And when was it first registered and how long has  
17 it been registered?

18 A The Izz ad-Din al-Qassam brigade's website, alqassam.ps  
19 and various iterations first emerged in July of 2001. It has  
20 been online most of the period since then.

21 MR. ELSNER: Okay. I'd like to show the  
22 demonstrative Exhibit, the next slide. If I may to the jury,  
23 Your Honor?

24 THE COURT: Any objection?

25 MR. STEPHENS: Basically the same as before, which

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1 is that it's an unauthenticated website.

2 THE COURT: Well, I can't really tell what this is  
3 from the picture.

4 Q Mr. Kohlman can you generally describe to us what it is  
5 that is before you?

6 A Yes, this is a page from an Internet website that I  
7 recovered from Internet Archive. It was first saved by the  
8 Internet Archive on May 1st, 2003.

9 Q Did you rely upon it as a basis of your expert opinion?

10 A I did.

11 Q May I publish it?

12 THE COURT: I still don't know enough about it.

13 Let's have a side-bar.

14 (Side-bar conference held on the record out of the  
15 hearing of the jury.)

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Side-Bar

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1 (Side-bar.)

2 THE COURT: What does it say?

3 MR. ELSNER: It just explains the structure of the  
4 site. It's the home page of the al-Qassam, so the jury has  
5 some sense of what the website looks like.

6 THE COURT: Why is that not hearsay?

7 MR. ELSNER: I'm not offering it into evidence,  
8 Your Honor, just want to show as a demonstrative what it looks  
9 like.

10 THE COURT: What does it demonstrate?

11 MR. ELSNER: Just demonstrates so the jury can  
12 understand how the website is generally formatted.

13 THE COURT: What does that matter?

14 MR. ELSNER: It was just a way to show the jury what  
15 it looked like. It's not so important.

16 THE COURT: I can't find a basis for admitting it.  
17 I will sustain the objection.

18 (Side-bar end.)

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1 (In open court.)

2 BY MR. ELSNER:

3 Q Mr. Kohlman, could you tell the jury how the al-Qassam  
4 website is organized? What's this generally?

5 A Yes. The website is organized or has been organized in  
6 that it has different subsections within the website. One  
7 subsection is labeled in Arabic, which means communiqués. In  
8 other words, this is the section where you would go to get the  
9 latest communiques issued by Hamas's military wing, the  
10 al-Qassam brigade.

11 There is another section for martyrs if you want to  
12 get detailed information about individuals killed while  
13 fighting with the Izz ad-Din al-Qassam brigade or suicide  
14 bombers who have killed themselves on behalf of the brigade.  
15 There is a section for details about them where you can find  
16 photographs, video, detailed stories about them, other  
17 materials including communiqués about the operations they  
18 participated in.

19 There are other sections as well. There's a section  
20 for multimedia if you want to download video and audio  
21 recordings, either featuring senior Hamas leaders, featuring  
22 suicide bombings, featuring other military operations by  
23 Hamas. You can download those videos there.

24 Q Mr. Kohlman, in your review of the al-Qassam website,  
25 what is it that indicated to you that it's an official Hamas

1 website and not a website operated by the media or a fan of  
2 Hamas?

3 A Well, first of all, we first became aware of this  
4 website, the public in general first became aware of this  
5 website because it was publicized in 2001 by the Muslim  
6 Brotherhood, which is as anyone knows is the mother  
7 organization of Hamas. Hamas is a splinter of the Muslim  
8 Brotherhood.

9 Two, the site itself actually says in English and  
10 Arabic the official home page of the Izz ad-Din al-Qassam  
11 brigades. It provides exclusive interviews with a number of  
12 senior Hamas officials, including senior representatives of  
13 the military wing. It has offered open question and answer  
14 sessions with individuals seeking to contact Hamas leaders.  
15 It has offered original video recordings of suicide bombers  
16 and other individuals that are a part of Hamas that have not  
17 been released elsewhere. It has even offered copies of  
18 photocopied martyrdom notes. In other words, the final  
19 testament, written testament of suicide bombers.

20 It has even provided copies of identity cards taken  
21 from Israeli soldiers in combat. In other words, there is a  
22 wide assortment and a plethora of information on this website  
23 that would be almost impossible to obtain elsewhere if not  
24 directly from the movement. And of course, Hamas itself has  
25 said this is the official website of their military wing.

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1 Q And does that information form the basis of whether you  
2 believe there's an authentic claim of responsibility for Hamas  
3 for the 24 attacks at issue in this case?

4 A Correct.

5 Q Did you research yourself each of those 24 attacks?

6 A I did.

7 Q Okay. And what did you conclude as the basis of your  
8 research?

9 A I concluded that Hamas, through various means, through  
10 various channels, online channels, in this case very  
11 specifically the Palestinian Information Center and the  
12 website of the Izz ad-Din al-Qassam brigades, had issued  
13 authentic claims of responsibility for these different  
14 attacks, either in the form of an explicit communiqué, in the  
15 form of a video recording or audio recording of the individual  
16 who carried out the attack, in the form of propaganda posters,  
17 in the form of special reports, the form of anniversary  
18 documents and such as the glory record.

19 Bottom line is there was evidence on both of these  
20 sites indicating Hamas claiming responsibility for their  
21 involvement in every single one of these attacks.

22 Q Perhaps by using an attack as an example, you may be able  
23 to explain to the jury the types of evidence you reviewed in  
24 reaching your conclusions.

25 Could you explain to the jury what the Bus Number 2

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1 attack was?

2 A Yes. In August of 2003 an individual named Ra'ed Abd  
3 al-Hamid Misk boarded again, Bus Number 2 in Jerusalem. He  
4 blew himself up killing approximately 23 people and wounding  
5 as many as 125 others.

6 Go ahead, sorry.

7 Q What is it about the information on the al-Qassam website  
8 as it relates to the Bus Number 2 bombing that led you to  
9 believe that the al-Qassam website is an official website of  
10 Hamas?

11 A With regards to the attack on Bus Number 2 the al-Qassam  
12 website provided the following information about how it was  
13 carried out and the person who carried it out.

14 First of all, the website published official  
15 communiques from the Izz ad-Din al-Qassam brigades, from  
16 Hamas, claiming responsibility for the attacks and, in fact,  
17 naming the bomber who was later proven, in fact, to be the  
18 bomber.

19 The organization also provided a copy of a video  
20 recording of Ra'ed Misk in which Mr. Misk, wearing a green  
21 headband -- green being a signature color for Hamas --  
22 identifies himself as being a member of the Izz ad-Din  
23 al-Qassam brigades -- in other words, the armed wing of  
24 Hamas -- and announces that he is about to carry out an  
25 operation to avenge the killing of a senior Hamas leader known



1 as Abdullah Qawasmeh.

2 In addition to the video recording, there are also  
3 high-resolution photographs that were published on the  
4 al-Qassam website. Photographs, one of which shows Mr. Misk  
5 with his children, and perhaps that could have been obtained  
6 elsewhere; however, the other photographs show Mr. Misk  
7 holding a variety of different weapons including automatic  
8 weapons, machine guns, handguns. These were high-resolution  
9 photographs. They did not appear to come from a media source  
10 in which they would have been washed down for public  
11 distribution. They were high-resolution images. They appear  
12 to be original images.

13 In addition to these photographs of Mr. Misk, there  
14 was also a propaganda poster that was also uploaded to  
15 alqassam.ps. The propaganda poster featured a picture of  
16 Mr. Misk holding an automatic weapon, it included inset  
17 photographs of the aftermath of the Bus Number 2 bombing, and  
18 it identified Mr. Misk as an al-Qassami Sammy martyr. In  
19 other words, a martyr of the Izz ad-Din al-Qassam brigades.

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21 (Continued on following page.)

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1 EXAMINATION CONTINUES

2 BY MR. ELSNER:

3 Q Mr. Kohlmann, can you generally describe what this  
4 document is and where you obtained it?

5 A On the left side of the page is the original Arabic  
6 language version of a website downloaded from Al Qassam  
7 dot PS. On the right side of the page is an English  
8 translation of the Arabic language original version.

9 Q Is this one of the communiques you were referring to?

10 A Yes.

11 Q Did you rely upon this document to form the basis of your  
12 opinion?

13 A Yes.

14 MR. ELSNER: Your Honor, I would like to publish  
15 this document to the jury and move it into evidence.

16 THE COURT: The same objection?

17 MR. STEPHENS: Yes, Your Honor.

18 THE COURT: It is overruled.

19 It is received.

20 (Marked.)

21 MR. ELSNER: Thank you, Your Honor.

22 Q Mr. Kohlmann, what is it about this communique which  
23 leads you to believe that it's an authentic statement of  
24 responsibility by Hamas?

25 A Well, if you look at the English translation provided in

1 the image that is displayed you can see very clearly the top  
2 of the communique is marked Izzidin Al Qassam Brigades, the  
3 military wing of the Hamas movement information office, which  
4 is exactly the way that Al Qassam titles their Hamas's armed  
5 wing, titles their communiques.

6           You will see in the middle of the communique there  
7 is a circular logo with a flag and an automatic weapon. That  
8 is the official logo, the official insignia of the Izzidin  
9 Al Qassam Brigade. Specifically, the armed wing of Hamas.  
10 This is their logo.

11           You can see below it it says military proclamation  
12 issued by martyr is Izzidin Al Qassam Brigades. Once again,  
13 you will notice that this communique identifies this attack as  
14 had been carried out to avenge the killing of Hamas leader  
15 Abdula Al-Quwasme, which is exactly what Mr. Misk described or  
16 what he narrated in the video recording that was also uploaded  
17 to this same website.

18 Q     Is it too signed by the Al Qassam Brigades?

19 A     Indeed. This communique is signed by the Izzidin Al  
20 Qassam Brigades, the military wing of the Hamas movement.

21 Q     Okay. I would like to show Mr. Kohlmann Exhibit 3952.  
22 I'm sorry. 3909. I'm sorry.

23           Mr. Kohlmann, can you generally describe what this  
24 document is and where it was obtained?

25 A     This is an image that was uploaded to Al Qassam dot PS

1 website which features a propaganda poster, and I personally  
2 downloaded it from this website.

3 Q Did you rely on this poster to form the basis of your  
4 expert opinion?

5 A I did, yes.

6 MR. ELSNER: Your Honor, I'd like to move this  
7 document into evidence.

8 THE COURT: One second.

9 The same objection?

10 MR. STEPHENS: That and perhaps we can discuss it  
11 for a moment.

12 THE COURT: Okay. Side bar, please.

13 (Continued on next page.)  
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1 (Side bar.)

2 MR. STEPHENS: In addition to the objection that I  
3 have been raising, this document raises all the issues of  
4 authenticity and in fact whether it has been doctored, whether  
5 that was anywhere near this photograph, where it came from,  
6 whether he was holding the gun. The silhouette around the  
7 outside of this indicates all of this has actually been  
8 photo-shopped.

9 THE COURT: Why do you say that?

10 MR. STEPHENS: The halo here indicates it has been  
11 photo-shopped. I know that because I do my kid's stuff. This  
12 witness is not an expert in photography. He's said that.  
13 There is no way this can be authenticated as anything other  
14 than something that he saw on the web.

15 THE COURT: He saw it on the web. It's on a website  
16 which he has satisfactorily for admissibility purposes tied to  
17 the organization. The fact that the organization may have  
18 photo-shopped it I don't think is relevant.

19 I thought you were going to more stress your  
20 objection on declaration against interest grounds. I didn't  
21 get a chance to study it but I didn't see anything particular  
22 that's against interest.

23 MR. ELSNER: The translation here says the third  
24 anniversary of the martyr of the Al Qassam Brigades, the holy  
25 warrior and identifies Misk as that same person that carried

1 out that suicide bombing attack.

2 THE COURT: How does that get the organization in  
3 trouble?

4 MR. ELSNER: Because it identifies the organization  
5 by its emblem and taking credit for this particular attack.

6 THE COURT: Is it taking credit? That's my  
7 question.

8 MR. ELSNER: Yes.

9 THE COURT: Where is it taking credit?

10 MR. ELSNER: This is the third anniversary of him,  
11 the executor of the Jerusalem attack. It identifies the Hamas  
12 logo, Your Honor.

13 THE COURT: I understand. But where is it taking  
14 responsibility for this attack? That's what I am not seeing.  
15 It's glorifying the attack. But we in this country glorify  
16 the Revolutionary War. But I don't have any responsibility  
17 for it. So where is it taking responsibility for this attack  
18 rather than just glorifying it?

19 MR. ELSNER: I think circumstantially it's taking  
20 responsibility by publishing it on its website that  
21 authenticates it as a Hamas website.

22 THE COURT: I don't think that's enough for  
23 declaration against interest. I am going to sustain  
24 objection.

25 MR. ELSNER: May I use it for 703 purposes, Your

1 Honor?

2 THE COURT: Yes, I think so. He can say that he  
3 based his opinion on it.

4 MR. ELSNER: I would also like to show these  
5 photographs. Is there any objection to the photographs from  
6 the website?

7 MR. STEPHENS: Yes.

8 THE COURT: Why?

9 MR. STEPHENS: It purports to be his family and his  
10 kids.

11 MR. ELSNER: I am not offering it for proof that it  
12 actually is his children.

13 MR. STEPHENS: Then what are you offering it for?

14 MR. ELSNER: To prove that this is Hamas website  
15 because of the specific high resolution details of these  
16 photographs.

17 THE COURT: I will allow that. I will allow it to  
18 be shown to the jury but not received in evidence. I will  
19 give a limiting instruction that it is being offered solely as  
20 the basis for the expert's opinion and not for any assertion  
21 of facts that are contained in the exhibit.

22 MR. ELSNER: Okay.

23 THE COURT: Do you want that instruction,  
24 Mr. Stephens?

25 MR. STEPHENS: Yes. Thank you.

1 (In open court.)

2 MR. ELSNER: Your Honor, plaintiffs would like to  
3 show to the jury exhibit -- I'm sorry -- show to the jury  
4 Exhibit 3909, solely for 703 purposes.

5 THE COURT: Ladies and gentlemen, this exhibit is  
6 not being admitted into evidence. The only purpose in showing  
7 it to you is so that you can evaluate it as part of the  
8 witness' opinion in determining what weight to give his  
9 opinion. It has no independent weight and it should not be  
10 taken and the statements contained in it should not be taken  
11 as true just because they are contained in it.

12 All right. You may --

13 EXAMINATION

14 CONTINUES BY MR. ELSNER:

15 Q Mr. Kohlmann, can you describe to the jury what this is  
16 and where you found it?

17 A Yes.

18 This is an Izzidin Al Qassam Brigades propaganda  
19 poster. In other words, it's a propaganda poster for the  
20 military wing of Hamas. It was uploaded to the Al Qassam  
21 dot PS website and it was made available on the Al Qassam  
22 dot PS website on the martyr subsection dealing specifically  
23 with Raed Abdul Hamid Misk. Specifically, regarding the bus  
24 number two bombing.

25 Q What is it with this particular poster that indicates to



1 you that this is -- that the Al Qassam website is an official  
2 Hamas website and that this is an authentic claim of  
3 responsibility?

4 A Once again, the propaganda poster here is marked with the  
5 official logo and insignia of the Izzidin Al Qassam Brigades.  
6 You can see that at the top left there.

7 At the bottom, or actually in the middle and at the  
8 bottom, the individual who carried out the operation is  
9 identified as a Quwasme martyr. In other words, a martyr of  
10 the Izzidin Al Qassam Brigades, an individual associated with  
11 the military wing of Hamas and of course you can see on the  
12 right there the inset photographs of the actual operation, the  
13 bus number two attack.

14 Q Now, does Hamas only put these kinds of posters on the  
15 website or are they also found in other places?

16 A They are found quite widely.

17 The purpose of these propaganda posters generally  
18 actually is to print them out and post them up publicly in  
19 areas of the Palestinian territories in order to try to  
20 recruit on behalf of Hamas, in order to try to induce  
21 individuals to either contribute money or themselves to the  
22 cause.

23 Q I would like to show the witness only at this point in  
24 time the next slide, Exhibit 3931.

25 Mr. Kohlmann, can you identify these?

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1 A Yes.

2 These are images of Raed Abdul Hamid Misk that were  
3 uploaded to Al Qassam dot PS.

4 Q Did you download these images?

5 A I did, yes.

6 Q Did you review them and did they form a part of your  
7 expert opinion?

8 A They do, yes.

9 MR. ELSNER: Your Honor, I would like to publish  
10 these to the jury for the same reason.

11 THE COURT: Ladies and gentlemen, I am going to let  
12 you see these pictures. Again, the pictures are not  
13 necessarily accurate. They are offered only to show you what  
14 this witness is relying on in coming to his opinions so that  
15 you can determine what weight, if any, you want to give to his  
16 opinions.

17 Q Mr. Kohlmann, what is it, if anything, about these photos  
18 that indicates to you that the Al Qassam website is an  
19 official website of Hamas and that they are taking an  
20 authentic claim of responsibility for the bus number two  
21 attack?

22 A Well, number one, these photos were not made available on  
23 any other website that I was familiar with.

24 But number two, these images in their original form  
25 were very enlarged. They were fairly high resolution. They

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1 are not the kind of photographs that are normally posted on  
2 CNN dot com or a major media site. They are too large to be  
3 posted in an article. These images appear to be fairly close,  
4 at least in terms of -- in terms of chain of custody for when  
5 they were originally taken.

6 Q What is it about high resolution that makes it more  
7 authentic being Hamas versus not?

8 A Sure. Images when they get used by media, they get  
9 washed down in order to take up a very small amount of room.  
10 They also have a logo on them. Typically if you see an image  
11 from CNN or Associated Press, they end up having a watermark  
12 which says associated press or CNN. You will notice that  
13 these images have no watermark. They are large. They are  
14 fairly good quality images. Again, that means that they  
15 weren't washed down that much. Which means that whoever  
16 uploaded them here was relatively close in the chain of  
17 custody to when they were taken.

18 Q I would like to show the witness, Mr. Kohlmann,  
19 Exhibit 3912.

20 Mr. Kohlmann, can you just generally describe what  
21 this next item of evidence, potential evidence is, generally?

22 A Yes.

23 This is a video recording that was uploaded from the  
24 Al Qassam dot PS website, specifically to the subsection of  
25 the website dealing with the martyr Raed Abdul Hamid Misk.

Kohlmann - direct - Elsner

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1 Q Did you rely upon this video to form the basis of your  
2 opinion?

3 A I did, yes.

4 MR. ELSNER: Your Honor, I would like to move this  
5 in evidence.

6 MR. STEPHENS: Objection, Your Honor.

7 THE COURT: I understand the objection.

8 I don't know what's in the video.

9 MR. ELSNER: Side bar, Your Honor?

10 THE COURT: Yes.

11 (Continued on next page.)  
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1 (Side bar.)

2 THE COURT: Is this one of the Will videos?

3 MR. ELSNER: It is.

4 THE COURT: Do you have a transcription of what it  
5 says.

6 (Pause).

7 Okay. I think this is probably the easier  
8 declaration against interest we have seen so far. So I will  
9 overrule the objection.

10 MR. OSEN: Would it help to have these for the bench  
11 in advance?

12 THE COURT: Yes, it would. Generally I get a  
13 complete set of the things that are going to be offered well  
14 in advance.

15 MR. ELSNER: I'm sorry. I will do that next time.

16 THE COURT: So we don't have to come up here.

17 For future reference, if it is a declaration, if  
18 someone says I have done or I am about to commit a terrorist  
19 act, which this effectively is, then I am going to overrule  
20 the objection. So you can just note your objections to  
21 preserve it and I will overrule it. We don't have to come up.

22 MR. ELSNER: Do you have any other objections to the  
23 to the other video we intend to show which we disclosed to you  
24 last night?

25 MR. STEPHENS: I will have to take a look.

Kohlmann - direct - Elsner

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1 THE COURT: We will go through them one at a time  
2 and we will do the best we can.

3 MR. ELSNER: Thank you.

4 (Continued on next page.)  
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1 (In open court.)

2 MR ELSNER: Your Honor, I would like to move  
3 Exhibit 3912 into evidence.

4 THE COURT: That's received over objection.

5 (Marked.)

6 EXAMINATION CONTINUES

7 BY MR. ELSNER:

8 Q Mr. Kohlmann, where was this video played?

9 A I'm sorry. What was that?

10 Q Where was this video available?

11 A This video was made available in the martyr subsection  
12 under Raed Abdul Hamid Misk under the Al Qassam dot PS  
13 website.

14 Q Did you need a special password to find this video?

15 A No. It was publically available for anyone to download  
16 it.

17 Q What is it about this video that indicates to you that  
18 it's an authentic claim of responsibility by Hamas?

19 A There are a number of factors. First of all, obviously  
20 the video itself is marked with the -- with the official logo  
21 of the Izzidin Al Qassam Brigades, in other words, the  
22 military wing of Hamas.

23 Second of all, the entire speech that Mr. Misk gives  
24 is all about an individual, Abdula Quwasme, i.e., Abu Idaman,  
25 who he refers to by his combat name, Abu Ayman, man who is the

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1 senior Hamas official who was killed shortly before this.  
2 Mr. Misk clearly indicates that his operation is to avenge  
3 the killing of Abdula Quwasme. And again, he not only refers  
4 to Quwasme but he refers to Quwasme by his combat name, which  
5 is Abu Ayman.

6 Of course, there are other indicators as well.  
7 Again, in the photograph here you see Mr. Misk wearing a green  
8 headband. Green headbands are typically worn by Hamas  
9 members. Salafi jihadists, generally they wear black  
10 headbands. There are a number of different factors in here,  
11 smaller and larger, that would tend to show in fact this was  
12 Hamas document.

13 Q Now, Mr. Kohlmann, do all the communiques, official  
14 statements of responsibility, contain the names of suicide  
15 bombers every single  
16 time?

17 A No, not always.

18 Q Can you give us an example of when that did not occur?

19 A Yes.

20 Q What is that?

21 A In April of 2003, specifically April 30, 2003, an  
22 individual carried out a suicide bombing attack targeting  
23 Mike's Place, which is a British theme pub near the US and  
24 British embassies near Tel Aviv. The attack killed three and  
25 wounded several dozen bystanders. The attack was carried out



1 by an individual who identified himself as a Hamas operative  
2 later on. However, initially, the operation was simply  
3 claimed by Hamas as a joint operation with another  
4 organization.

5 Q Did that affect your opinion as to whether or not it was  
6 an authentic claim of responsibility and if so in what way?

7 A The fact that they didn't name the bomber?

8 Q Right.

9 A No, it did not.

10 As it turned out, within approximately -- within a  
11 very short period of time, it became clear that there were  
12 specific reasons why Hamas had not named the bomber. Namely  
13 for security reasons, they didn't want to divulge his identity  
14 because it would have threatened the security or safety of  
15 other individuals still on the loose.

16 Q Can you describe for us the information on the Al Qassam  
17 website concerning the Mike's Place bombing and whether that  
18 informed your opinion as to whether or not the Al Qassam  
19 website is an official website of Hamas and whether Hamas made  
20 an official claim of responsibility, authentic claim of  
21 responsibility for the Mike's Place bombing?

22 A It does.

23 Q In what way?

24 A Within 11 months of the initial attack taking place and  
25 the initial communique being issued by Hamas claiming credit

Kohlmann - direct - Elsner

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1 for that attack, Hamas provided additional documentation  
2 clarifying their role or their involvement in the attack and  
3 proving their role, I would say, in the attack.

4 Q I would like to show the witness Exhibit 3807, please.

5 Mr. Kohlmann, can you describe for us what this  
6 particular exhibit is?

7 A Yes.

8 Q In general.

9 A This is a translation of an Arabic language communique  
10 that was posted on the Al Qassam dot PS website.

11 Q Did you download this yourself?

12 A I did, yes.

13 Q Does it form the basis of your expert opinion?

14 A Yes, it does.

15 MR. ELSNER: Your Honor, I would like to move this  
16 into evidence.

17 THE COURT: The same objection?

18 MR. STEPHENS: Yes, Your Honor.

19 THE COURT: All right. It is overruled. The  
20 document is received.

21 (Marked).

22 MR. ELSNER: Thank you.

23 Q When the document is posted, Mr. Kohlmann, could you tell  
24 us why it is you believe that this is a Hamas website given  
25 the content of this document and whether you believe based on

1 this document this is an authentic claim of responsibility by  
2 Hamas?

3 A Yes. Well, this particular communique was issued on  
4 Hamas websites the very same day that the attack occurred. So  
5 contemporaneously issued.

6 Number two, as you can see, at the top of this  
7 particular version of the communique it clearly  
8 says -- actually this is not even translated. It says in  
9 English, on the original version in English, Izzidin Al Qassam  
10 Brigades, the military wing of the Hamas movement information  
11 office and then of course in the middle there you see the  
12 official logo of the Izzidin Al Qassam Brigades, the official  
13 watermark. The statement itself is signed by the martyr  
14 Izzidin Al Qassam Brigades and once again you see here their  
15 catch phrase at the end, it is a jihad until either victory or  
16 martyrdom.

17 Q Is there anything about the specific reasons that the  
18 attack is undertaken that makes you believe that this is an  
19 authentic claim of responsibility by Hamas?

20 A Well, it says exactly when it was -- when it was taken.  
21 These -- the time it was launched and also because of the fact  
22 that it says why this attack was launched. Namely, the fact  
23 that this attack was done to avenge the killing of another  
24 Hamas leader by name of Doctor Ibrahim Al-Maqadma.

25 Q Who is that?

Kohlmann - direct - Elsner

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1 A Doctor Ibrahim Al-Maqadma was a senior Hamas leader who  
2 was killed shortly before this operation took place.

3 Q Was there any other information concerning the Mike's  
4 Place bombing attack on the Al Qassam website?

5 A Yes.

6 Q What was that?

7 A Again, approximately 11 months after the attack took  
8 place, the then iteration of the Al Qassam website posted at  
9 that point as a domain Izzidin dot net. In other words,  
10 Izzidin dot net like Izzidin Al Qassam Brigades released  
11 videos, two video clips featuring the two bombers.

12 Q Did you review that clip when it was released?

13 A I did, yes.

14 Q How soon after it was released?

15 A I reviewed the clip the very day it was released on  
16 Izzidin dot net.

17 Q Did it form the basis of your opinion?

18 A Yes.

19 MR. ELSNER: Your Honor, this is Exhibit 3826. I  
20 would like to move it into evidence.

21 THE COURT: Can I see it?

22 MR. ELSNER: Yes, Your Honor.

23 (Continued on next page.)  
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1 (Side bar.)

2 THE COURT: I am not seeing how it is against  
3 interest. Where is the acknowledgment of responsibility?

4 MR. ELSNER: Is say oh, Allah grant us martyrdom in  
5 your path. And they are depicted once again in the same way  
6 as Mr. Misk was depicted indicating their intent to carry out  
7 a suicide bombing attack.

8 MR. OSEN: They are also dressed in combat fatigues  
9 underneath a picture of Mr. Maqadma.

10 THE COURT: I am not seeing any of that. How do I  
11 see that?

12 MR. ELSNER: We can show you the video.

13 THE COURT: We have done so much work to vet  
14 exhibits pretrial. It seems unfortunate that I am in this  
15 position where I can't really tell without now seeing the  
16 video for the first time.

17 MR. ELSNER: May I show it to the jury under 703  
18 purposes? Then if it qualifies we can move it into evidence.

19 THE COURT: Tell me again what's in the video that  
20 makes it against the interest of the declarant.

21 MR. OSEN: The video is of the two bombers dressed  
22 in combat fatigues, stating that they are about to go to  
23 martyrdom. They have weapons --

24 THE COURT: It says they are about to go to  
25 martyrdom?

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1 MR. ELSNER: It says oh, Allah, grant us martyrdom  
2 in your path.

3 THE COURT: They are carrying weapons?

4 MR. ELSNER: Yes.

5 MR. OSEN: They have the same green headbands and  
6 the pictures of Mr. Maqadma above it.

7 THE COURT: How does the witness tie it in to the  
8 particular attack?

9 MR. ELSNER: Ties it back to the communique. He  
10 ties it back to the purpose of the attack was for Maqadma.  
11 The picture of Maqadma that is above them as they are  
12 declaring their intent to go to martyrdom. It corroborates  
13 the official communique and it's published, again, on Hamas's  
14 website.

15 THE COURT: All right. I will allow it over the  
16 objection.

17 MR. ELSNER: Thank you, Your Honor.

18 (Continued on next page.)  
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Kohlmann - direct - Elsner

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1 (In open court.)

2 MR. ELSNER: Your Honor, may we play for the jury  
3 and move into evidence Plaintiff's Exhibit 3826?

4 THE COURT: It is received over objection.

5 (Marked)

6 (Video plays.)

7 EXAMINATION CONTINUES

8 BY MR. ELSNER:

9 Q Mr. Kohlmann, where was this video?

10 A This video was uploaded to Izzidin dot net which was the  
11 then domain or the official website of Izzidin Al Qassam  
12 Brigades now known as Al Qassam dot PS.

13 Q The military wing of Hamas?

14 A Correct.

15 Q Did you need a special password to access the site?

16 A No. In fact, this video was widely advertised because of  
17 the fact it featured western nationals. So it made quite a  
18 splash.

19 Q What is it about the video, Mr. Kohlmann -- actually, let  
20 me do this. If I can put before the witness Exhibit 4516,  
21 which I am just going to offer for demonstrative purposes.  
22 I'm sorry. 3817.

23 Can you identify what this photograph is,  
24 Mr. Kohlmann?

25 A Yes. This is a Getty images photo. In other words, this

Kohlmann - direct - Elsner

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1 is a news stringer photo obtained from major media showing the  
2 two individuals who were just featured in the same video, Asif  
3 Mohammed Hanif and Omar Sharif.

4 Q Did you use this photograph to form the basis of your  
5 expert opinions here?

6 A Yes.

7 MR. ELSNER: Your Honor, I would like permission to  
8 display this to the jury for demonstrative purposes.

9 THE COURT: Who wrote the legend on either side, the  
10 identifications?

11 THE WITNESS: Getty Images, Your Honor, the  
12 source -- the people that initially published this image.

13 THE COURT: What is Getty Images?

14 THE WITNESS: It's like a news stringer. It's like  
15 AP. It's like Associated Press for images. They distribute  
16 images to a variety of different major media around the world.  
17 They are like AP images or Reuters images, big image  
18 production company.

19 THE COURT: All right. I am not going to receive it  
20 in evidence. You can show it to the jury.

21 The jury is instructed to disregard the  
22 identification of the people depicted in this picture other  
23 than to note that the witness has said that these are indeed  
24 those people.

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1 EXAMINATION CONTINUES

2 BY MR. ELSNER:

3 Q Mr. Kohlmann, what is it about the video that we saw, and  
4 using this picture as an aid, that makes you believe that this  
5 was an authentic claim of responsibility by Hamas and that  
6 Al Qassam was an official Hamas website?

7 A Number one, it is important to first note that this image  
8 in the video come from two different sources. The image comes  
9 from major media whereas the video itself comes directly from  
10 the Hamas website.

11 Yet, both the image and the video, they have the  
12 exact same backgrounds. You will notice that that green flag  
13 with the white writing is the exact same background that both  
14 the image and the video were taken from. In fact, if you  
15 notice there is also a poster at the very top of that green  
16 background. You can see the poster at the top of the image  
17 right now and you can also see it in the video as well.

18 That poster is an official propaganda poster from  
19 the Izzidin Al Qassam Brigades, Hamas's military wing. We  
20 know that because of the fact that, number one, if you see at  
21 the top left of the poster in the inset there is the official  
22 watermark or logo of the Izzidin Al Qassam Brigades. I will  
23 mark it right here. Right there. And you will notice right  
24 here is the official logo of the Hamas organization in  
25 general.

1           What's more is that this individual right here the  
2 arrow is pointing towards, who is again the -- shown in this  
3 poster, this poster is viewable both in this news image as  
4 well as the video made available on the Hamas website. That's  
5 Doctor Ibrahim Al-Maqadma. That's the Hamas leader, the slain  
6 Hamas leader who was identified in the communique that was  
7 issued the very day of the attack as being the impetus for  
8 this operation.

9           So it seems clear that the two individuals who  
10 purportedly carried out this operation knew in advance that  
11 this operation was in honor of Doctor Ibrahim Al-Maqadma and  
12 understood that they were being filmed on to the logo of  
13 Hamas.

14           (Continued on next page.)  
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Elsner - Direct - Kohlmann

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1 MR. MR. ELSNER:

2 Q Mr. Kohlmann, we have walked through two examples of 24  
3 attacks. I would not like to do that to the jury to go  
4 through all 24.

5 Can you tell me how the research conducted for these  
6 attacks impacts your decision for the other 22, did you do the  
7 same type of work on?

8 A Yes, I did the exact same type of research, the used  
9 exact same two basic websites, I used the Palestine  
10 Information Center and I used the al-Qassam official website  
11 in its various forms and I used content from those two  
12 websites, to determine whether or not, there were communiqués,  
13 video recordings, propaganda, posters, photographs, or other  
14 documentation which would suggest, that-- authentic  
15 documentation which would indicate that Hamas had claimed  
16 responsibility in one form or another, for these various  
17 different attacks.

18 Q Now, not every single attack has a video, right?

19 A Correct.

20 Q Not every single attack has a martyrdom poster?

21 A Correct.

22 Q So how can that impact your decision whether or not these  
23 24 attacks were officially-- where Hamas officially claim  
24 credit?

25 A In some cases, Hamas had particular reasons for not

Elsner - Direct - Kohlmann

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1 issuing further documentation. In some cases, rather than  
2 issuing a formal claim of responsibility, Hamas would issue a  
3 special report, which would document their involvement not  
4 just in one attack, but in a series of attacks, that had taken  
5 place in one location, in a short period of time.

6 So, even if there wasn't an explicit communiqué,  
7 there was substantial amount of documentation. Again  
8 authentic documentation from Hamas, claiming responsibilities  
9 from the-- for these attacks.

10 Q All 24?

11 A All 24.

12 Q Mr. Kohlmann, I'm just curious, we saw what the Palestine  
13 Information website that there was a way to donate money to an  
14 account at Arab Bank. What about the Al-Qassam website, is  
15 there a place for people to donate money there?

16 A Yes.

17 Q And, can you explain to us what that process was, and to  
18 whose account, what bank account maintained that account?

19 A Sure.

20 Approximately a year after the website-- for the  
21 Al-Qassam website first emerged, a notice was posted in  
22 Arabic, advertising the fact that Al-Qassam was seeking  
23 donations, in order to support their military mission.

24 Individuals who wished to support Izz ad-din  
25 al-Qassam brigades and military operations, were urged to

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1 contact --

2 MR. STEPHENS: Your Honor.

3 THE COURT: Sustained. Put another question please.

4 Q Mr. Kohlmann, can you tell me how it is you know there is  
5 a particular place on the Al-Qassam website in which donations  
6 were to be received?

7 MR. STEPHENS: The same objection, this is not the  
8 expertise of this witness. He is not called for --

9 THE COURT: Stop. If you want a sidebar, I will  
10 give you a sidebar.

11 I will sustain the objection.

12 Q Mr. Kohlmann, how is it that you became aware that there  
13 was a place on the Al-Qassam website to receive donations?

14 MR. STEPHENS: Objection.

15 THE COURT: Sustained.

16 Q Mr. Kohlmann, as a component of your research, did you  
17 research in fact whether there is a place for donations to be  
18 received on the Al-Qassam website?

19 MR. STEPHENS: Objection.

20 THE COURT: Overruled as to that question.

21 Did you research that?

22 THE WITNESS: I did, yes.

23 Q And, were you able to come to an opinion based on your  
24 research as to whether or not in fact there was a place by  
25 which donations could be given to the-- in support of the

Elsner - Direct - Kohlmann

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1 Al-Qassam website?

2 MR. STEPHENS: Objection Your Honor.

3 THE COURT: Overruled.

4 A Yes.

5 Q Can you explain to us, what that information was that--  
6 and did that form the basis of your expert opinion in this  
7 case?

8 A Yes. It did form the expert basis for my expert opinion.

9 There was a page--

10 MR. STEPHENS: Objection, Your Honor.

11 THE COURT: Ladies and gentlemen, what you are about  
12 to hear is not evidence of what was on that page. The  
13 evidence is the witness' opinion. He is giving you what he  
14 thinks he reasonably relied on, to come to that opinion. But  
15 your task is to evaluate the opinion, not to take as true, any  
16 evidence that is not before you.

17 You may proceed.

18 THE WITNESS: Thank you, Your Honor.

19 Q What was the basis of that opinion?

20 A There was a page, posted on the Izz ad-Din Al-Qassam  
21 Brigade's website, which solicited for donations to support  
22 their military missions and indicated those interested should  
23 contact them via E-mail.

24 Q Did you research whether anyone had ever contacted them  
25 via E-mail and what account they were given?

Elsner - Direct - Kohlmann

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1 A I did.

2 Q And did that form the basis of your expert opinion?

3 A Yes.

4 MR. STEPHENS: Objection, Your Honor.

5 THE COURT: Let's have a sidebar, please.

6 (Sidebar.)

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- Sidebar -

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1 THE COURT: I did not understand this witness as  
2 having been proffered for the purpose of tying the bank to the  
3 attacks.

4 Are you saying he is doing that?

5 MR. ELSNER: He is doing that, in this way. It is  
6 part of his expert opinion, it is in his report.

7 MR. STEPHENS: Absolutely not true. I will show the  
8 testimony that he gave. He said he is not offering an opinion  
9 about Arab Bank.

10 THE COURT: Let's do that. I think we will break  
11 for lunch now and we will be back here in 10 minutes. Then  
12 you will show me what you have got. He is-- it is not my  
13 recollection that this was in his report. And I do remember  
14 some limitation on his testimony at deposition.

15 But let's see who is right about that. We will come  
16 back in ten minutes.

17 MR. STEPHENS: Thank you.

18 (Open court.)  
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- C O L L O Q U Y -

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1 THE COURT: Ladies and gentlemen, what we are going  
2 to do now is break for lunch. We will come back here at  
3 12:35.

4 If Ms. Clarke didn't give you some area restaurants,  
5 you can go to -- there is a cafeteria downstairs. Mr. LaSalle  
6 will tell you today.

7 THE COURT: I'm sorry, 1:35. They knew. This is a  
8 good jury, they knew what I meant even if I said it wrong.

9 Please remember not to talk about the case among  
10 yourselves, nor with anyone else. Keep an open mind, don't do  
11 any research, don't see any press reports about the case,  
12 don't communicate on the Internet or otherwise about it. We  
13 will see you back here at 1:35.

14 Thank you very much.

15 (Jurors left the courtroom.)

16 THE COURT: I will see the lawyers at 12:40.

17 (Recess taken.)

18 THE COURT: Be seated, please.

19 So I have looked at the report and I understand that  
20 the witness read an article, in U.S.A. Today, which reported  
21 that donors were told on the Al-Qassam website, to wire their  
22 funds to Arab Bank. I understand that.

23 That is-- that would really be using this witness as  
24 a conduit for pure hearsay. The plaintiffs are going to have  
25 to prove that fact if they want it known to the jury, by some

- C O L L O Q U Y -

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1 other means. If they can, they don't need this witness. If  
2 they can't, they can't have this witness.

3 So I'm going to sustain the objection. Anything  
4 else.

5 MR. OSEN: My I be heard briefly?

6 THE COURT: You can try.

7 MR. OSEN: In the absence of Mr. Elsner.

8 Probably we have in this context is that unlike the  
9 records from-- of the count listed on Palestine-info, the  
10 defendant has not turned over the records for this account.

11 And so, we are in a disadvantage that we don't have,  
12 with respect to the Palestine-info account of Mr. Hamden and  
13 that is something which we want to draw the attention to,  
14 because the witness would have reviewed those accounts, had  
15 they been made available.

16 THE COURT: Ask him that. I will let you ask him  
17 that.

18 MR. OSEN: Right.

19 THE COURT: Did you get these records. He will say  
20 no, I did not get these records. And then you agree to say to  
21 the jury, in your closing, here is why he didn't get these  
22 records. Like the Judge told you in the adverse inference  
23 instruction.

24 MR. OSEN: That is fine.

25 How would that tie to the bank unless you say, that

- C O L L O Q U Y -

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1 it is an Arab Bank record that was requested.

2 THE COURT: Well, you will say that. Right?

3 MR. OSEN: That is the question, Your Honor. In  
4 other words, we would ask-- you would have to say to the  
5 witness, did you have-- did you investigate this, did you have  
6 what is said in the report about the published reports of it  
7 being an Arab Bank account. Then he would say, I have no  
8 basis for it, but I did ask for the records.

9 THE COURT: No, I think you are putting the tail  
10 before the donkey, okay. The fact of the matter is, this  
11 witness can't give you that. The reason he can't give you  
12 that, maybe in fact, because you were blocked on the records.  
13 You can bring out, that this witness did not review the  
14 records. Then you have to argue the significance of that to  
15 the jury in the context of the adverse inference instruction.

16 MR. OSEN: Understood, Your Honor.

17 THE COURT: All right.

18 MR. STEPHENS: Your Honor, in a broader--

19 THE COURT: You won.

20 MR. STEPHENS: I know.

21 THE COURT: Never say anything when you win. You  
22 can only lose at this point.

23 Do you have something additional and different or  
24 you want to put this ruling at risk?

25 MR. STEPHENS: He testified he wasn't going to

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1 testify about Arab Bank. He had no opinions about the bank.

2 THE COURT: We can argue about that, but like I  
3 said, since you won, there is no reason to.

4 Let's reconvene at 1:35.

5 MR. OSEN: I'm sorry, Your Honor, one last thing. It  
6 has nothing to do with this issue, Your Honor.

7 After cross examination of Mr. Kohlmann, we are  
8 prepared to play the first excerpt that we had discussed  
9 earlier.

10 There is one little glitch that I want to draw your  
11 attention to, we don't object to it. But in the  
12 counter-designation by the defendant, there is a reference to  
13 a suicide bombing that was not committed by Hamas.

14 Again, it is their designation not ours. We just  
15 wanted Your Honor to be aware of it because obviously Your  
16 Honor ruled that those bombings are outside of the scope for  
17 the trial.

18 So --

19 THE COURT: You are letting me know, you are not  
20 opening any doors, just by letting this one reference in.

21 MR. OSEN: It is their reference we don't object to.  
22 We didn't want you to think that we were affirmatively opening  
23 the door.

24 THE COURT: I think that is what I meant to say.

25 MR. STEPHENS: I don't want to open the door either

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1 to the other attacks. I'm not sure of what comments you are  
2 referring to.

3 THE COURT: That is all right. We are on the same  
4 page. No one is objecting, but no doors are opening,.

5 Have a good lunch.

6 (Lunch recess.)

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1 THE COURT: Let's have the jury, please.

2 (Jury entering.)

3 THE COURT: All right everyone, be seated.

4 Let's continue.

5 BY MR. ELSNER:

6 Q Mr. Kohlmann, when we broke for lunch, we were discussing  
7 the Al-Qassam website; is that right?

8 A That's correct.

9 Q That is the website for the military branch of Hamas?

10 A That's correct, yes.

11 Q We were-- does the Al-Qassam website have a place to  
12 solicit donations?

13 A It did, yes.

14 Q What did the site say was the reason or the purpose for  
15 which the money would be used that they were soliciting?

16 A The money being solicited on the al-Qassam website was  
17 being solicited in order to support the military missions of  
18 Hamas. In other words, military attacks.

19 Q Was it in English or in Arabic?

20 A I believe it was in Arabic.

21 Q Can you describe for the jury, as best as you understand  
22 it, the process by which this solicitation was to occur?

23 A Yes.

24 The process was the following, an E-mail address was  
25 provided which was hosted on the actual website. So it was

1 support at Al-Qassam.ps the E-mail address was reaching  
2 someone affiliated with website. People were instructed to  
3 send an E-mail to that address, and then they would be  
4 E-mailed back instructions on exactly where and how to send  
5 the money.

6 Q Were you given any account records in this case, related  
7 to the Al-Qassam website?

8 A No.

9 Q Did you ask?

10 A Yes, I did.

11 MR. ELSNER: Thank you Your Honor, I will pass the  
12 witness?

13 THE COURT: Cross examination.

14 CROSS EXAMINATION BY MR. STEPHENS:

15 Q Good afternoon Mr. Kohlmann.

16 A Afternoon.

17 Q I am Shand Stephens, I don't believe we have met before.

18 A I don't think so either.

19 Q Now, you identify yourself as an international terrorism  
20 consultant; is that right?

21 A Correct, yes.

22 Q And according to your resume, you went to Georgetown  
23 University from 1997 too 2001?

24 A Yes.

25 Q And you graduated in 2001 with a degree in international